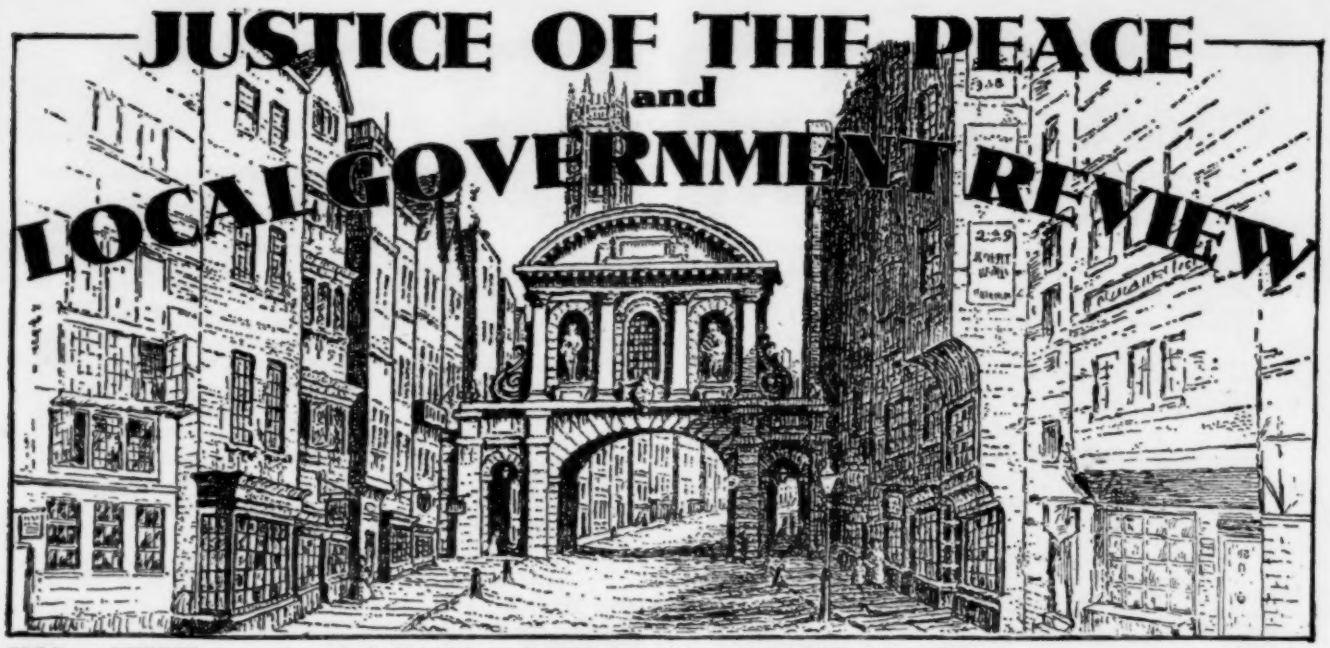

VOL. CXVIII LONDON : SATURDAY, MARCH 27, 1954 No. 13

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

Published by JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex
Telephone : CHICHESTER 3637 (P.B.E.) *Telegraphic Address :* JUSLOCGOV, CHICHESTER

NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

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LINCOLNSHIRE. Assistant Clerk to Justices' Clerk required, part-time on Justices' work and remainder on general work in Solicitor's Office. Salary on General Division Scale. Box A.17, Office of this Newspaper.

APPOINTMENTS

MUNICIPAL BOARD OF MOMBASA require Solicitor or Barrister as Deputy Town Clerk. Must have considerable Local Government experience. Salary £1,200×£50 to £1,400 plus cost of living allowance (now £350) and house allowance. Full particulars on request. Personal canvassing disqualifies.

Apply with three recent testimonials by April 24, 1954. Town Clerk, P.O. Box 440, Mombasa, Kenya Colony.

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Burnley Petty Sessional Division

APPLICATIONS are invited for the appointment of an experienced Magisterial Assistant at a salary scale of £495 rising by annual increments to £540. The appointment will be superannuable and subject to a medical examination. Applications to be sent to the undersigned not later than nine days from the appearance of this advertisement.

GUY SOUTHERN,
Clerk to the Justices.

Martins Bank Chambers,
Burnley.

BOROUGH OF NEATH

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors between the ages of thirty and fifty years and having considerable Local Government experience the appointment of Town Clerk which will become vacant on September 6, 1954.

The commencing salary will be £1,400 rising by four annual increments of £50 to a maximum of £1,600 per annum.

The appointment is subject to the Conditions of Service set out in the Second Schedule to the Memorandum of Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks, to three months' notice on either side, to the Local Government Superannuation Acts, and to the passing of a medical examination.

Applications, in envelope endorsed "Town Clerk," giving age, education, legal and academic qualifications, present and past appointments, etc., and the names and addresses of three persons to whom reference can be made, must be delivered to the undersigned not later than April 30, 1954.

ALFRED E. I. CURTIS,
Town Clerk.

Town Hall,
Neath.

LANCASHIRE No. 10 COMBINED PROBATION AREA

Appointment of Whole-time Male Probation Officer

APPLICATIONS are invited for the appointment of a Whole-time Male Probation Officer to serve the Leigh area. Applicants must be not less than twenty-three years nor more than forty years of age, except in the case of serving Probation Officers. The appointment will be subject to the Probation Rules, 1949-52, and the salary will be according to the scale prescribed by those rules. The successful applicant will be required to pass a medical examination. Applications, stating age, present position, qualifications and experience, together with two recent testimonials, must reach the undersigned not later than April 12, 1954.

NICHOLAS TUITE,
Clerk to the Probation Committee.

Magistrates' Clerk's Office,
Royal London House,
King Street, Wigan.

COUNTY BOROUGH OF CROYDON

Appointment of Principal Probation Officer

APPLICATIONS are invited for the appointment of a Principal Probation Officer for the County Borough of Croydon. The salary scale will be that prescribed for posts in Group 1 of the Table subjoined to Rule 61 (2) of the Probation Rules, 1949 to 1952, together with a Metropolitan addition of £30.

Applications, together with three references, must reach the undersigned by April 9, 1954.

A. J. CHISLETT,
Secretary to the Probation Committee.

Town Hall,
Croydon.

STAFFORDSHIRE COMBINED PROBATION AREAS

Appointment of Assistant Principal Probation Officer

APPLICATIONS are invited for the appointment of an Assistant Principal Probation Officer in the area of the Staffordshire Combined Probation Committee.

The appointment will be subject to the Probation Rules and the salary will be in accordance with the Rules namely from £700 per annum rising by annual increments of £25 to £800 per annum. The selected candidate will be required to pass a medical examination and to provide his own car for which a travelling allowance will be made.

Applications, stating age, qualifications and experience, and accompanied by copies of not more than three recent testimonials, must reach the undersigned not later than April 12, 1954.

T. H. EVANS,
Clerk of the Peace.

County Buildings,
Stafford.
March 23, 1954.

When replying to advertisers please mention the Justice of the Peace and Local Government Review

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and
Local Government Review
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VOL. CXVIII. No. 13 LONDON : SATURDAY, MARCH 27, 1954

Pages 193-208 Offices : Little London, Chichester, Sussex.

[Registered at the General Post Office as a Newspaper]

Price 2s. 3d. (including Reports)
Price 1s. 3d. (without Reports)

NOTES of the WEEK

What Constitutes Desertion

It may be said with some truth that the courts now take a broader view than was formerly the case on the question of desertion, and in particular, recognize many forms of what is generally called constructive desertion. However, this must not be carried too far, and it is necessary for magistrates to have regard to certain well-defined principles. This is illustrated by the case of *Hanson* v. *Hanson* (*The Times*, March 10), in which the Court of Appeal allowed the husband's appeal against a decree of judicial separation and affirmed the dismissal of the wife's petition for divorce, both petitions being on the ground of desertion.

It is not necessary for the purpose of this note to state the facts, beyond saying that following disputes about money the parties ceased to live together as man and wife, and lived entirely separate lives in the same house. There could, as Singleton, L.J., said, in the course of his judgment, be desertion under such conditions subject to the necessary evidence, but in this case he could not find justification for finding that the wife was entitled to a decree. In order to constitute the matrimonial offence of desertion there must be an intention on the part of the deserting spouse to bring co-habitation permanently to an end without reasonable cause and without the consent of the other spouse.

The Lord Justice went on to say that some might think that in the circumstances of this case it would be as well if this marriage could be brought to an end. Each of the parties was full of stubbornness and bitterness and there was no possibility of reconciliation. None the less he did not think the Court should find desertion.

The essential elements of desertion are clear enough even though there is no precise definition of the word. To prove that the marriage has broken down, and that the parties are living separate and apart with no desire on either side to resume cohabitation on either side, is not enough to make out a case of desertion.

Evidence of Previous Convictions

English law is careful to guard a person on trial for a criminal offence against the introduction of matters of mere prejudice, and in particular it protects him from cross-examination about his own bad character or previous convictions and from the giving of evidence by the prosecution designed to show, from his character or record, that he is a person likely to commit the offence with which he is charged.

In a country whose legal system is based upon English common law and which has adopted in large measure English statutes, we generally expect to find few differences in matters such as the admissibility of evidence, but new countries sometimes think well to make innovations, and the *Honorary Magistrate* (New Zealand) for November, 1953, contains an interesting note on the question of the admissibility of evidence.

In *The Queen* v. *Clark* (1953) N.Z.L.R. 823 the accused was charged on indictment on two counts—namely, theft of a camera and receiving it then knowing it to have been dishonestly obtained. The accused gave evidence on his own behalf, but did not offer any evidence as to his good character. He did not challenge the correctness of any of the evidence given by witnesses for the Crown ; he gave a version of the transaction which did not contradict the statements of those witnesses, except upon minor and relatively unimportant matters. An application was made to the trial Judge for leave to cross-examine the accused upon his previous convictions. His Honour, when granting leave and in his summing-up, told the jury to determine the question of the accused's participation in crimes with which he was charged, and to refrain from determining his guilt or innocence by reference to his previous convictions, as the purpose of allowing such cross-examination was solely to enable the jury to judge how far it ought to rely on the accused's evidence. The accused was acquitted on the theft charge and convicted on the charge of receiving. He appealed against the conviction on the ground that the cross-examination was not justified, and that it had caused a miscarriage of justice.

The Court of Appeal held that, under s. 5 (2) (*d*) of the Evidence Act, 1908 (as substituted by s. 5 of the Evidence Amendment Act, 1952), the protection of an accused person from cross-examination as to previous convictions or credit is a matter of discretion of the trial Judge. Though, in England, the basis of the protection from cross-examination upon previous convictions is largely a matter of law, the limits prescribed by s. 1 (*f*) of the Criminal Evidence Act, 1898 (Eng.) should, in general be observed in New Zealand in the exercise of the discretion.

The Court of Appeal also held that, even if, in New Zealand, there may still be cases outside the limits set by the English statute in which the discretion should be exercised in favour of allowing the cross-examination, it should not be exercised where the defence has not been developed on lines requiring the credit of the accused to be implicated to the extent of informing the jury of his previous convictions.

Adoption : Duties of Guardian *ad litem*

The duties of a guardian *ad litem* in proceedings for adoption are to make investigations, to report to the court, and to attend the court when required. The object of the appointment is to safeguard the interests of the infant and to help enable the court to decide whether to make an adoption order. In the course of his investigations there must often be some kind of discussion with parents and applicants about the pros and cons of the proposed adoption, but it is not for the guardian *ad litem* to bring pressure to bear on any of the parties. In the second schedule to the Rules there is a requirement that the guardian *ad litem* shall, if the parents consent to adoption, inquire what are the

reasons for giving consent and whether such consent is given without pressure from other persons.

In *Re P, An Infant*, p. 151, *ante*, the need for the guardian *ad litem* to avoid putting any kind of pressure upon a mother to give her consent was made clear, and those who are entrusted with the duties of a guardian *ad litem* will take notice, though we have no doubt that in general their duties are admirably performed.

A Case under the Prevention of Crime Act, 1953

It has been said, with some truth, that many of the cases brought as charges under this Act could perfectly well be the subject of prosecution under other existing statutes. None the less the Act is, in our opinion useful in providing for some cases which are not covered by other Acts.

There have been differences of opinion about the application of the definition of " offensive weapon " in s. 1 (4) of the Act, and about what constitutes lawful authority or reasonable excuse, and in *R.* v. *Jura* (118 J.P.N. 183) the Court of Criminal Appeal differed from the trial judge on the latter point, and allowed an appeal against conviction. The appellant was convicted of carrying in a public place an offensive weapon without lawful authority or reasonable excuse. It was alleged that the appellant, who was using an air rifle in a shooting gallery, having fired some shots at the target, suddenly turned and shot his woman companion in the hip as she was walking away. The trial judge, in his direction to the jury, said that if this was an accident then the appellant was not in unlawful possession of the rifle ; his possession only became unlawful if, in the opinion of the jury, he turned the rifle deliberately on the woman. In delivering the judgment of the Court of Criminal Appeal the Lord Chief Justice said he did not think that the direction which the Judge gave to the jury could be upheld. The title of the Act was : " An Act to prohibit the carrying of offensive weapons in public places without lawful authority or reasonable excuse." The Act was meant to apply to persons who had no excuse whatever for carrying offensive weapons, which included a cosh or a knife. Here the appellant was not carrying the rifle without lawful authority, because he was at a place where on payment people could amuse themselves by firing at a target. It was the use of the rifle which was unlawful, and the appellant might have been convicted of a felony under the Offences Against the Person Act, but it could not be said that the appellant was carrying the rifle without lawful excuse and the conviction on this count must be quashed.

County Rates 1954/55

Information now available about county council precepts for 1954/55 in England and Wales confirms our previously expressed view that rate increases arising from county requirements would be fewer and smaller than in the current financial year. The following is a summary of the position :

English Counties	1954/55	1953/54
Rate reduction :		
0—6*d.*	2	1
No change ..	15	7
Rate increase :		
Up to 6*d.*	9	4
Over 6*d.* and up to 1*s.* 0*d.*	15	6
Over 1*s.* 0*d.* and up to 1*s.* 6*d.*	4	12
Over 1*s.* 6*d.* and up to 2*s.* 0*d.*	3	8
Over 2*s.* 0*d.* and up to 2*s.* 6*d.*	Nil	4
Over 2*s.* 6*d.* and up to 3*s.* 0*d.*	Nil	3
Over 3*s.* 0*d.* and up to 3*s.* 6*d.*	Nil	2
Over 3*s.* 6*d.* and up to 4*s.* 0*d.*	Nil	1

Welsh Counties	1954/55	1953/54
Rate reduction :		
0—6*d.*	Nil	1
No change ..	3	4
Rate increase :		
Up to 6*d.*	3	1
Over 6*d.* and up to 1*s.* 0*d.*	3	3
Over 1*s.* 0*d.* and up to 1*s.* 6*d.*	2	2
Over 1*s.* 6*d.* and up to 2*s.* 0*d.*	2	1
Over 2*s.* 0*d.* and up to 3*s.* 6*d.*	—	1

The three highest rated English counties are :

Cambridge	21*s.* 10*d.*
Huntingdon	20*s.* 6*d.*
Hereford	20*s.* 3*d.*

The three lowest are :

Stafford	12*s.* 6*d.*
Isle of Ely	13*s.* 0*d.*
Surrey	13*s.* 8*d.*

In Wales the two highest rated counties are :

Anglesey	21*s.* 0*d.*
Caernarvon	20*s.* 1*d.*

The two lowest are :

Monmouth	13*s.* 0*d.*
Glamorgan	14*s.* 0*d.*

In many counties substantial drafts on balances have been made in order to restrict rate increases : it has been possible to do this in many instances because revised figures of probable net expenditure for 1953/54 show considerable savings on the original estimates.

Unintended Saving

We are in no position to dispute the statement in the review of 1953 by the Churches' Committee on Gambling, that the turnover on all forms increased that year by twenty-seven million pounds. Greyhound racing and fun fairs had come down in popularity ; the pools were up by roughly three *per cent.* and horse racing by about three-quarters of one *per cent.* as compared with 1952. Money spent on pools increased for the fifth year in succession. Every magistrate and social worker knows that gambling, like alcohol, is a major cause of domestic unhappiness and crime, but there are not many people left who expect to see either abandoned in this country. And we think, also, that it can be said that those who favour attempts by Parliament at suppression or serious restrictions are fewer, and less influential, than at the beginning of the century. One reflexion that we do not remember to have seen developed in regard to gambling (though it is regularly brought into discussions about alcohol and tobacco) is that these forms of taking pleasure bring a handsome tribute to the Revenue, apart from the betting tax. Everybody knows that the pools contribute largely to the money earned by stamps and postal orders, and that bookmakers are among the biggest users of the telephone, but it is not always recognized how much of the punter's stake finds its way into the coffers of the tax collector. Pool promoters may or may not eventually agree to disclose their profits to the public, but they are few in number and can hardly have secrets from the Inspectors of Taxes in the cities where they trade. In connexion with the Bedfordshire County Council (Superannuation) Bill, the county council's actuarial adviser has queried the propriety of taking from the individual ratepayer the money required to build up a

safeguarding fund against deficiency, a process which, since the money is not to be immediately spent but will accumulate, amounts to compulsory saving by the individual.

The descendant of Samuel Smiles can truly tell the man who spends (say) 2*s.* 6*d.* on the pools and 3*s.* 7*d.* upon cigarettes that nothing will be left but a forlorn hope and the memory of a transient pleasure. But if the man who spent the money prefers to use his earnings this way, instead of buying a book or going to see a film, he differs from the ratepayer contributing to a superannuation fund in the fact that he made his choice to please himself. Most people today would think he was entitled to his preference. Even those persons, most numerous in Great Britain, the British Commonwealth, and the United States, who long to improve the habits of their neighbours, can console themselves with the reflexion that the Exchequer gets quite a lot of that 6*s.* 0*d.* in income tax and other taxes.

Signing by Stamp

In an article entitled "What does 'signing' mean" at 117 J.P.N. 559, we expressed the opinion, based upon decided cases, that a man who stamps his name upon a document can be said to "sign" or to "affix his signature," in the literal meaning of the words. It would obviously be unsafe to assume that this was always true in law. The context has to be considered. In *Goodman* v. *Eban, Ltd.* (*The Times*, March 6, 1954), the Court of Appeal has held that statement true in regard to a solicitor's bill of costs, which by s. 65 (2) of the Solicitors Act, 1932, must be signed by him or, if the costs are due to a firm, by one of the partners in the firm, either in his own name or in the name of the firm, or be enclosed in or accompanied by a letter which is so signed and refers to the bill. There was a complication in the case, when the Court came to apply this section to a solicitor practising without a partner, under a firm name which was not his own, but this complication need not concern us here. What is important to local government officials is the majority decision of the Court, endorsing the practice of using a stamped name instead of a written name.

It is important to notice that the decision does not deal with a printed name, whether facsimile or not, or with the question whether a person who is required by law to sign a document does so effectively by directing his clerk to stamp his name. We had something to say about this last year. The immediate purpose of this Note is to point out that a local government official (for example) can use an engraved stamp if he finds this better than a pen. And this, we think, accords with practical necessities as well as with etymology. As Denning, L.J., indicated in his dissenting judgment, the word "sign" did not when first used connote the writing of a name. Even today, the marksman authenticates a document by placing upon it a "sign" (originally and normally the sign of the Cross) which is not a "signature" in the modern sense. He must place this mark himself, and his Lordship proceeds to point out that a stamped signature will not bear the idiosyncrasies of a written signature, and therefore will be easier to forge. This, however, is to overlook the quite ordinary custom of letting a firm's name be written by any one of several partners, a practice expressly recognized in the above quoted extract from the Solicitors Act, 1932.

Granting that, in modern times, "signature" and "sign" must—save for the rare case of the marksman—be taken as connoting the affixing of a name, we are pleased to see the majority of the Court of Appeal agreeing with what we wrote last year. The Master of the Rolls spoke of a pen or pencil as the primary implement; nowadays many persons use an ink-containing tube which is not quite either. A Chinaman might use a paintbrush; we see no reason why a town clerk should not use a stamp held in his hand.

Black and White

The case we mentioned at p. 130, *ante*, where licensing justices felt obliged to notice a publican's refusal to serve coloured customers, arose at Birmingham; it is ironical that it should also be at Birmingham that trouble has occurred about the engagement of coloured persons as conductors on the corporation omnibuses, and that the council, which has a Labour majority, should feel powerless to enforce the policy, of no racial discrimination, to which the Labour Party is so heavily committed. The council seems to have been anxious to enforce that policy and so was the trade union concerned; the obstacle lay (according to a statement broadcast by the editor of the *Birmingham Daily Post*) with the women conductors and their families. These, it was alleged, were forbidden by their parents and their husbands, as the case might be, to continue working if coloured employees were given "platform duty." The inference is that in garages and elsewhere behind the scenes the coloured workpeople were not objected to; it is curious that, according to the broadcast, the Midland General Omnibus Company, another big transport undertaking in the city, was employing coloured men upon the platform, and that since then yet a third, the Birmingham and Midland Motor Omnibus Company, has announced that coloured conductors have been given work.

When the council and the trade union both failed to persuade the women conductors to work with coloured comrades, a ballot of all conductors was suggested, but this in turn produced objection, first from the local Liberal Party and then from the conductors themselves. Both objections were, it seems, on the ground that the issue was one that should be settled by the employers, or else settled between the employers and the union.

Principle and Prejudice

The broadcast speaker sought to bring the controversy into focus by pointing out that it only affected, perhaps, some seventy persons, who alone were qualified to do the work; that the municipal buses employed about five thousand, and that about five thousand Jamaican negroes were already living in Birmingham and working at other trades. We are also credibly informed that one of the London main line stations has a negress upon daily duty at the ticket barrier, and negro porters wheeling barrows.

The municipal omnibus affair at Birmingham may be a storm in a conductress's tea cup, but it may also be a portent. It is all very well for politicians, of whatever Party, to denounce racial discrimination, at home or overseas, but the feelings from which discrimination springs are deeply rooted facts. In the case we mentioned earlier, the licensee had feared trouble because a coloured persons' club was near; the justices intimated, as we did in our Note, that refusal to admit them to his bar was not the proper remedy. But suppose he finds, as he may do, that as the result of his admitting them in future his old established customers take their custom elsewhere? A Birmingham man cannot be compelled to stand at the same bar with a Jamaican, or a Birmingham woman to work beside one in a garage. We do not envy the task of the licensing justices, if things reach a stage at which a licensee must choose between a colour bar and a bar that has lost its trade, or the task of an employer in any workplace where work-people are ready to carry prejudice to the point of leaving.

FLAGS AND EMBLEMS

The Home Secretary was undoubtedly right when, in answer to a question in the House of Commons, he not merely declined to interfere with the promotion of the Flags and Emblems (Display) Bill in the Parliament of Northern Ireland, but declined to express an opinion either way upon the merits. There was a supplementary question, suggesting that the original question ought not to have been allowed upon the order paper of the House of Commons, but the Speaker explained that he had, after consideration, let it stand because it had been so ingeniously framed as to suggest that the Northern Ireland Bill might adversely affect the relations of the British Commonwealth of Nations with a friendly foreign country. On this view, it might have been thought right (as was indeed suggested in yet another supplementary) that the answer, negative or as the case might be, should be given by the Secretary of State for Foreign Affairs, not by the Home Secretary, who is the channel of communication between the Crown and the Government of Northern Ireland.

Whichever Minister answered for the Government of the United Kingdom, the answer could only be that which the Home Secretary gave, in *Hansard* for February 25, 1954, that the Bill, to which some members of the House objected, was directed towards the preservation of public order in Northern Ireland. " Section 4 of the Government of Ireland Act, 1920, expressly empowers the Parliament of Northern Ireland to legislate upon this matter " (said Sir David Maxwell Fyfe) " I have no responsibility for it, and it would not be proper for me to express an opinion about it." To this the Speaker added at a later point in the exchanges which arose : " the Bill refers to internal law and order in Northern Ireland, with which we have nothing to do."

The Bill is short. Clause 1 would hardly be objected to by any body of persons in this country, since all it does is to declare guilty of an offence under the Act any person who prevents or threatens to interfere by force with the display of the Union flag by another person on or in any land or premises lawfully occupied by that other person. Such interference is both an actionable trespass and, normally at least, a criminal offence under the ordinary law, both in England and in Ireland, North and South, and all the Bill proposes (so far) is to introduce new penalties, on summary conviction or indictment.

The provision to which objection is felt is in cl. 2, the side-note of which is " Removal of provocative emblems." This empowers a police officer not below the rank of sergeant to require discontinuance of the display of any emblem (defined to include a flag of any kind other than the Union flag), where he apprehends that such display may occasion a breach of the peace, having regard to the time or place at which and the circumstances in which the emblem is displayed. The police officer's " apprehension " of the probable result of the display cannot, as the Bill stands, be challenged by way of action against him or defence in any subsequent proceedings. The person who displayed the emblem incurs a penalty if he does not take it down, and, if he does not, or if the person responsible cannot be found, the officer is empowered to enter the premises and take the emblem down himself.

Legal proceedings are, by cl. 4, not to be carried beyond the stage of the first appearance in the magistrates' court without the consent of the Attorney-General for Northern Ireland.

If the Bill could be regarded in a vacuum, the worst that could be said of it would be that it empowered the police to insist upon removal of an " emblem," and to enter private property, without a warrant and upon an " apprehension," *i.e.*, a mental condition of their own—and for this there are familiar precedents already, in the law of England. We have ourselves called attention to equally remarkable invasions of privacy and liberty permitted (for example) by the Metropolitan Police Acts.

The criticism which English writers have aimed at the Northern Irish Government has not been by way of attacking the actual provisions of the Bill, so much as by attack upon its background. There is the aftermath to reckon with, of the Home Rule controversy ; there is the body of opinion in this country that condemns what has been called the " Iron Curtain " raised by the Six Counties along their frontier, and, as was suggested in the House of Commons after the Home Secretary had given his reply, there is the belief that the Northern Irish Government has been forced to introduce the Bill by back bench pressure, instigated by the Orange Lodges.

It is evident that the " emblem " at which cl. 2 is directed will be the flag of the Republic of Ireland, and that it is republican sympathizers who are visualized by cl. 1, as possibly interfering with the Union flag. We understand from a County Antrim correspondent that part of the background to the Bill is to be found in episodes that happened round about Coronation time last year, when fights broke out and were curbed by the police, and the Government in Belfast incurred hostile comment from its own supporters, on the ground of its upholding police officers who had maintained neutrality between the contestants.

To the observer, whose feet are planted firmly in Great Britain, it must seem unfortunate that the Union flag should be a party symbol, with the flag of another country (which has left the Commonwealth) adopted as the symbol of a rival party, but for the Irishman this course of events was natural.

The Englishman is, indeed, not especially flag-conscious. On appropriate occasions he will, it is true, display what the present Northern Ireland Bill correctly calls " a Union flag (usually known as the Union Jack)." He will almost certainly call it by this " usual " name, with cheerful disregard of the shudder this produces among his Naval friends, if any, and he will just as cheerfully hang it between the flags of the Republic of Ireland and the Empire of Japan, if the colour effect appeals to his decorative sense. He finds it hard to understand why the Union of South Africa, and the new Dominion of Ceylon, do not regard the Union flag as appropriate to them (as plainly it is not, since its components are derived from countries in the British Isles) ; anyhow, he is apt to think, what does it matter ?

This attitude of mind is, however, different from the attitude existing in most other countries, where the symbolism of national and other flags is felt to be important. It is in the light of this very widespread difference as well as in the light of the past century of Irish history that the Bill now before the Parliament of Northern Ireland has to be regarded. Its introduction is a pity, from the point of view of gradual improvement. We have remarked before upon the fact that the *Irish Law Times* newspaper covers the whole of Ireland, reporting cases in the Northern Ireland Courts and in the Courts of the Republic, and that, in the purely legal (and, we believe, increasingly in the commercial) sphere old animosities are coming to mean less than a generation ago. We have many Northern Ireland readers, and some in the Republic. What their views may be, about Home Rule or Partition, we have no idea—nor indeed are we concerned to ask. What seems to be plain is that, unhappily, the Coronation led to trouble, of a " public order " type, and from the eastern side of St. George's Channel the only safe approach to the present Bill is that Irishmen must be presumed to know their business.

STATISTICS AND THE PROBATION SERVICE

[CONTRIBUTED]

Not so long ago, the editor of a popular Sunday newspaper stated that more nonsense was talked about the high value of probation work than Mr. Maurice Webb had ever talked about sausages. No doubt he was generalizing from a narrow experience. Had he read some statistics on the subject, he might have formed a different opinion. At least he would have had some facts on which to base his judgment.

The 1952 Probation Statistics for England and Wales, read in conjunction with the Criminal Statistics for England and Wales for the same year, give an illuminating picture of the work of probation officers. They are indispensable to anyone who wishes to form a considered opinion on the value of the Probation Service.

The first thing that strikes one is that the number of probation officers is still surprisingly small. At the end of 1952, according to the Probation Statistics, there were only 945 whole-time officers, 587 of these being men and 358 women. In addition, there were eighty-nine part-time, and twenty-four temporary officers. This small number contrived to serve all the criminal courts in England and Wales.

The total number of people under the supervision of probation officers at the end of 1952 was 58,678. Of these, 47,746 were probationers, 6,088 were under after-care supervision from approved school, borstal, prison and detention centre, 3,792 were the subject of supervision orders (under the Children and Young Persons Act, 1933), and the remaining 1,052 were paying fines under supervision (Money Payments Act, 1935), now Magistrates' Courts Act, 1952, s. 71.

All these cases were not, of course, divided exactly equally between probation officers. Case loads vary, but at the end of 1952, the average case load for men was 61·7 and for women 42·6. The men's average case load was made up as follows: Probation: 51·1; After-care: 8·3; Fine Supervision: 1·2; Supervision (Children and Young Persons Act): 1·1.

The average case load for women was distributed in something like the same way, except that the proportion of supervision and after-care cases was reversed.

The markedly lower case load for women does not necessarily indicate that women are incapable of equal work. Rather, it is a reflexion of the fact that female delinquents often demand more intensive case-work than do males.

Lest this give rise to male complacency, it must be emphasized that since crime is largely a masculine occupation, male probationers far outnumber females. The Probation Statistics show that on December 31, 1952, of the 47,746 persons on probation, 39,302 (82·3 *per cent.*) were males and only 8,444 (17·7 *per cent.*) were females. It is interesting to notice how the numbers of the age-groups of the two sexes on probation differ. At the end of 1952, the largest group for males were those under fourteen, 14,150 of whom were on probation. With females, however, the age-group of twenty-one and over was the largest; there were 3,723 women of this age on probation. Expressed as percentages, the age-group distribution was as follows:

	Under 14	14-16	17-20	21 *and over*
MALES	36%	27·9%	14·1%	22%
FEMALES ..	18·5%	17·7%	19·8%	44%

As might be expected, juvenile and magistrates' courts are responsible for making the majority of probation orders. Of the orders in force in 1952, according to the Probation Statistics, 41,365 were made by these courts and only 6,374 by the higher courts. At first sight, this might be thought to reflect a lack of confidence in probation by the higher courts. However, if we compare the numbers of those aged twenty-one and over placed on probation by the various types of courts, a very different picture is presented. It appears from the Criminal Statistics, 1952, that in the higher courts, of those dealt with for indictable offences 11·7 *per cent.* were placed on probation, while the figure for magistrates' courts for indictable offences was only 9 *per cent.*

The faith placed in probation by the higher courts is further borne out by the type of offences for which it was considered suitable. It was used, in fact, on occasion for every type of indictable offence against persons and property except Murder, Abduction, Endangering Life at Sea and Offences in Bankruptcy. Probation orders were made for such serious crimes as Attempted Murder (fourteen), Manslaughter (three), Incest (seventeen), Procuring Abortion (six), Sacrilege (eight), Burglary (143), Arson (twenty), Robbery (twenty-one), Embezzlement (five), Bigamy (twelve). There was even a probation order for Endangering Railway Passengers.

Some observers might deduce from this, that probation was being used increasingly indiscriminately. An examination, however, of the Comparative Tables in the Criminal Statistics would show this to be false. It is true that in 1952, 24,844 males and 5,268 females guilty of indictable offences were placed on probation, while the corresponding figures in 1938 were 21,820 males and 3,525 females. But, on the other hand, the number of actual offenders has greatly increased. If percentages rather than numbers are considered, a truer picture will be given. In 1938, fifty *per cent.* of male offenders under fourteen, guilty of indictable offences, were placed on probation; in 1952, the figure had declined to forty *per cent.* The other age-groups also show a decrease, *e.g.*, males of fourteen and under seventeen, from fifty-one *per cent.* to forty-one *per cent.*; males seventeen and under twenty-one, from forty-two *per cent.* to twenty-six *per cent.* While the percentage decreases for females was not so pronounced, the trend was similar.

It is difficult to know exactly what interpretation to put on these figures. The indication is, however, not that there is less confidence in probation, but rather that it is being used more carefully. Much time and effort may be wasted in placing unsuitable cases on probation, and it may well be that courts have become more discriminating. In this connexion, it is instructive to see from the Probation Statistics that 31,109 adults and 48,855 juveniles were the subject of social inquiries by probation officers before sentence. In view of the enormous number of offenders, these figures are not high, but they do indicate that courts are trying to find out more about wrongdoers before dealing with them. This may well explain the apparently more judicious use of probation.

The figures for the successful termination of probation orders are interesting. Of the 25,498 males whose probation orders expired in 1952, 19,444 (76·2 *per cent.*) were satisfactory; of the 5,076 females, 4,147 (81·7 *per cent.*) completed successfully. Commendable as these results are, however, they appear to tell more than they actually do. For the aim of probation case-work is the permanent reformation of the wrongdoer and the real test comes in the years after the probation period is ended.

Probation supervision, after-care and the supplying of social reports do not exhaust the probation officer's duties. A further

important function is that of conciliation in matrimonial disputes. According to the Probation Statistics, a total of 41,626 couples were interviewed in 1952 and, of these, 23,112 were still together at the end of the year. In addition, 38,090 matrimonial cases other than those involving conciliation were dealt with. When one reads in the Criminal Statistics that 27,636 applications for maintenance orders were made in magistrates' courts during 1952, and that in 15,100 cases orders were actually made, the vital importance of conciliation work is apparent.

Statistics, of course, can be made to prove most things—particularly a selective exposition such as this. It does not seem unfair to conclude from these figures, however, that the Probation Service is performing a useful function, and that, considering the volume of work undertaken, it is not overstaffed. It is right also to add that they do not bear out the Sunday newspaper editor's low opinion of the value of probation. But then it is the fate of many generalizations to be controverted by facts.

F.V.J.

REFORM OF LOCAL GOVERNMENT

We published a short note at p. 162, *ante*, mentioning some of the moves in the controversy about local government reform. Since that note went to press, there have been developments, which may make it inevitable for the Government to commit itself, and may force Parliament to begin considering whether the work of reorganizing local government is to be taken up and, if so, whether it can proceed by agreement, or must, with the aid of a parliamentary majority be forced through in the face of opposition from the many vested interests. In all ranks of local authority vested interests are determined that if reform comes, it shall come in a way which will leave them unimpaired. This is as true of the county boroughs and the counties as it is of the so-called minor authorities, whom it is the fashion for reformers to attack.

Among the developments we have just mentioned have been the second reading given by the House of Commons on March 11 to the Ilford Corporation Bill, and the debate upon the second reading of the Luton Corporation Bill. Greatly to the surprise of many observers outside Parliament (and we suspect of some members of the House) the Ilford Bill received a formal second reading without opposition ; this means that the case for and against county borough status at Ilford will be discussed in committee, with the aid of witnesses and counsel, before there is a further opportunity for its being debated (with reference first to Ilford and also to its repercussions) and on the floor of either House. We are not in a position to say whether the opponents of the Bill, who are known to have been mustering their forces, decided that they would do better by reserving their opposition at the stage of second reading, in other words, whether tactical advantages were foreseen by letting the case for and against the Bill be heard first in committee, or whether there was some accident which prevented their putting up the formal opposition which would have sufficed to put the second reading back to a later day, when time would have been found by the Whips for its discussion. The Luton Bill set down for second reading at the same time on March 11 went over to March 17. In a letter published by *The Times* on March 10, the mayor of Luton, after setting out the reasons which had moved his council to make a third attempt (at least) to secure county borough status, spoke of the Bill as a measure which would help to end the present general deadlock, and might well stimulate greater interest and activity in a wider sphere. He urged that there was no reality in any suggestion that the various associations of local authorities could agree among themselves as to the form of local government reorganization. With the prospect of a general Government measure, in his opinion, as remote as ever, he urged that the Luton Bill should be allowed its second reading.

Luton and Ilford have superficial similarities, and also divergencies. If Luton were given the status of a county borough, Bedfordshire might justly complain that it had been emasculated. County borough status for Ilford would not, purely, of itself, have the same effect on Essex, and the peculiar danger of the Ilford Bill, as seen by county interests in Essex and elsewhere, is that it would create a precedent, which other boroughs of large population to the east of London would be sure to follow. If a range of county boroughs on the Essex side came into existence this would, it is argued, be a fatal blow to the present administrative county, and would also be a growing barrier to rational reform of local government in Greater London. All these arguments are sufficiently familiar, as is the analogy of Luton to the case of Cambridge, which is not before Parliament at present : if Cambridge became a county borough, Cambridgeshire would suffer something more than mere emasculation—it could not survive.

On February 22 *The Times* devoted its first leading article to an unwontedly savage attack, both upon the arrangement of the existing local government authorities and upon successive Governments for not having attempted wholesale reform of those arrangements. Here is Saul among the prophets—*The Times* committing itself to the urban, indeed the megapolitan, solution, and also without reserve to an abolition of derating, although agricultural derating has been upon the statute book for close on sixty years (though not at first complete) and the partial derating of industrial and freight transport hereditaments was a central feature of the policy of Conservative Governments, supported by *The Times*, between the wars. Increasingly there has been agitation in local government financial circles, which from the outset never liked derating, but it is strange to find their opinions endorsed by *The Times*, although with no suggestion for working this change in the law with a reconsideration of the Rent Restrictions Acts.

It is almost as curious to find that the leader writer terms it " legalistic nonsense " that the comments of pigmy boroughs and urban districts (otherwise called " lowly minor " authorities) should have the same status and functions as those of the larger boroughs. Generally the whole tenor of the argument is to favour the quite large, if not exclusively the largest, boroughs at the expense first of the smaller boroughs and the urban districts and secondly of the rural districts and the county. As a cardinal requirement *The Times* advocates a great increase in the yield of rates. The increase of rates has lagged behind the increase of ratepayers' incomes and far behind the increase in central taxes ; the resources of the State have nearly trebled since before the war, while the taxable resources of local authorities have increased by only one tenth. We are not sure where this leads. Is *The Times* advocating that new sources of local authority revenue be found, as do the advocates of the rating of land values ? Or does it imagine that derating has produced this large discrepancy, and that the discrepancy would disappear if derating were abolished ? Or (lastly) is it indirectly advocating the scrapping of the Rent Restrictions Acts, and a consequential inflation of the rateable value of dwelling-houses ? It is easy enough to quote figures, but less easy to discern a remedy which would be workable ; still harder perhaps to discern a

remedy which would be acceptable to the electorate, always more alert to resent a further charge by way of rates than to resist increases of taxes.

The leader writer goes on to urge a form of " federal " government for the conurbations (including London) ; the establishment of some three dozen " most purpose " authorities elsewhere, and apparently a reduction of the number of county boroughs to a dozen. This is an interesting throw-back to 1888, when the Government had proposed something like this number in the Bill for the Local Government Act, 1888, and was forced by sectional pressure to concede a formidable increase. Further, the same leader writer suggests reducing the number of administrative counties, forgetting, apparently, the intense opposition roused by the proposals in this sense of the Local Government Boundary Commission. He wants a more satisfactory system of delegating county council services to " appropriate minor " authorities, and an abolition of an appreciable number of tiny local authorities. What *The Times* calls a " tiny " authority is, in this context, explained as being a local authority (other than a parish council) serving a population of less than 15,000 or 20,000. In the leader writer's view, size in the sense of population is apparently the only factor that should count ; the old notion is revived, of uniting a borough of small population, or urban district of small population, with the surrounding rural district ; once more, forgetting the real difficulties which (apart from sentimental difficulties and local loyalties) were uncovered by the Local Government Boundary Commission on this very point.

It will have been gathered that we are not convinced that the approach made by *The Times* has, in itself, carried matters further, just as we were hesitant about accepting Dr. W. A. Robson's view of which we spoke on p. 162, *ante*, that the Government and Parliament ought to force a solution on the country. One reason why we do not like the idea of a forced solution is that it would be only too likely to follow the mechanistic line to which *The Times* now stands committed : that is, sacrificing local experience and local loyalties to the notion of the large " all purpose " or " most purpose " local government authority. We do not regard that experience as being gained from, or those loyalties as being given to, legalistic nonsense, but as being factors which ought by every feasible means to be retained.

The mere fact, however, that the problem has been forced into the open with the weighty support of *The Times* thrown on the side of the big battalions, may make it desirable to examine once again some fundamentals, even at the cost of repeating a good deal that we have said before.

The first step towards a sound decision, about local government reform or reorganization, is to settle whether reorganization is essential ; the second is to make up one's mind what local government is for. Perhaps this second requirement is logically prior to the first. When one has decided what is the vocation of local government in England, one can consider whether that which now exists needs to be reformed or reorganized, and if so in what way. Differences are not of necessity anomalies, any more than a mouse ought to be trampled or have his single tail cut off because he is not an elephant with two.

Local government is commonly approached from one of two sides. It can be regarded (as the leader writer in *The Times* regards it) purely as a purveyor of services, a method of providing schools, sewers, houses, and what not. On the other hand it can be regarded as an expression of the general will. This latter view is implicit in most of the complaints which fill columns of the newspapers from time to time, and are normal at every conference of local authorities, against supposed encroachments by the central government. It is a good thing, so the argument runs, that the people in a locality should choose their governing body, and that the governing body when chosen should have as free as hand as possible. Even *The Times* admits this in a sense, when urging that the resources drawn from rates should be increased, and resources obtained from the Exchequer be diminished, when (it says) a diminution of Exchequer grants would reduce the volume of controls. Ordinarily, however, this second argument has more of a negative form, by way of opposition from some vested interest to this or that supposed encroachment, or to this or that contemplated price of reorganization, than of a positive formulation in the manner of the German philosophers, who would have said that local government was an expression of the *volksgeist*.

On the mechanistic side (that is, looking at local authorities as providers of specific services, or of all services not otherwise made available) it seems obvious that the only question, once one has conceded that the services are to be provided in this way, is whether the local authority's area and population provide the most effective unit. Many services can be given to the public either by the State, as hospital services are now given, or by private enterprise, or by the independent entities which have been put in charge of so large a part of the public utilities. For all this sort of thing there is no magic inherent in the " local authority " in the sense of a locally elected governing body ; indeed the country stands now committed to legislation based for many of these things upon the view that there is no adequate reason for having them provided by such locally elected bodies.

At this point it may be wise to note what seems a peculiarly British mode of thought. The ordinary Englishman is much less suspicious than the ordinary Frenchman or American of the honesty of persons occupying positions of authority, at all events so long as no issue of class jealousy comes into his mind, although he will all too often jump to the conclusion that persons whose financial or social position is better than his own have reached that position by sharp practice. He is, however, profoundly suspicious of the capacity, as distinct from the good faith, of any person to whom any sort of managerial job has been entrusted. The idea that the public should entrust a task to someone and leave that someone to do his best with the task, the so-called " principle of leadership," is repugnant to the national trait, of supposing that whatever is done by another person would have been done better by oneself. We suspect it is largely on this basis that that very British institution, the committee, has been reared. The responsibility is thus divided ; no single person has to bear the blame, and so, wherever more than two or three are gathered together for a common purpose they will establish a committee, even though they know that, in practice, many a committee consists of one member and the rest. Whether it is the government of the whole country or the management of a London square to which a few score tenants have a right of access, the practice is adopted. Thus in the governmental sphere one has a parish meeting, which is the successor of the open vestry, but it tends to be superseded by the parish council and itself abolished ; as the select vestry in London ousted the older form until the parish meeting, and, where it is not superseded, tends to die of inanition as a governmental organ. The whole country is governed by the House of Commons, a committee of unmanageable size, with a shadowy committee called the House of Lords in the background, and the House of Commons itself is largely controlled by the Cabinet, which again is a committee, and does much of its business through Cabinet committees. So the county borough is an area whose affairs are managed by a fairly large committee delegating functions to its sub-committees ; the administrative county, the non-county borough, and the county district, have their government divided between rival committees, called a county council, a town council, and, a district council, each concerned amongst other things to magnify

its office. One effect of the setting up of a universal hierarchy of committees for this that and the other, with interlocking functions, is to disguise responsibility and at the same time to divide blame. The public at large, as we have said, would be deeply distrustful of the capacity of a single man, if here and there he should happen to emerge to carry out some piece of work. This does not mean that nine-tenths of the work done is not done by individuals ; in the nature of things the world's work must be carried on by individuals, but the responsibility is so hidden and divided that the public does not know this, and speaks comfortably of the body which nominally controls the individuals as if its collective deliberations had been physically actions.

It is, therefore, not practical politics to ensure that the functions which in the twentieth century the man in the street, or the man in the small dwelling, thinks ought to be performed for his benefit by someone else shall be performed by persons specially selected and qualified to do so. Nor can the bulk of those functions be performed by the State (*i.e.*, by the totality of those affected acting through a central organ) because this would mean in practice that individual officials, up and down the country, would be carrying out those functions. When the State, acting through the large and small committees called Parliament and Cabinet, does decide to arrogate to itself some function such as hospitals or gasworks, it finds itself immediately obliged to set up a fresh series of committees, and to delegate to them the main part of its new function. The contest therefore (given English modes of thought) is between entrusting functions to bodies selected locally by a representative process, and entrusting them to local bodies selected by operation of the central machinery of the State. The latter mode is the more calculated to set up bodies having special knowledge of the function they are appointed to perform ; the former process (namely representative election from below) is better adapted to put into office persons whose presence there will content the populace, even though in the nature of things the elected persons cannot be acquainted with most of the work they have to do.

By a quaint twist of language, the election of a few persons by a large number, and the entrusting to the few of a great variety of functions affecting that large number, is known in our country as democracy. To the purist the elected local authority is one form of oligarchy, just as surely as the Central Electricity Authority or a joint hospital board appointed by a Minister. The only organ of democratic government which survives in contemporary England is the parish meeting, and this embodies a complete democracy in that parish only which has no parish council. Those who invented " democracy " as a form of government would, indeed, have declared that it was impossible in the large local government areas of the modern world.

We come back, then, to certain fundamental propositions. One must, if one is to content the general mass of the English people, go through certain motions which result in entrusting assorted governmental functions to relatively small committees, which are specifically called local authorities or councils in a technical sense. There is no essential virtue, so far as concerns getting the work done, in any single process, such as nomination or election, direct or indirect, by which these bodies come into existence, but as a matter of practice, again the necessity of contenting those who will be affected by their activities, popular election on a wide franchise is the most convenient.

Having got so far, one has to consider first what is the right sort of locally elected body to carry out each of the functions which people nowadays think ought to be carried out by such a body, and secondly how far is it possible to keep the members of such a body in touch with their constituents, without which there will be discontent, grumbling, and final apathy, and also, in the long run, inefficiency.

Returning to the illustration of the parish meeting and a parish council, it is plain that here the second desirable feature will be present. The members of the parish council will be personally known to those who have voted them into the managing position. At the other end of the scale, the councillors of one of the gigantic county boroughs of the present day, or of a widespread county, cannot be known personally to more than a fraction of those whom they represent. Something can be done in this direction by fixing reasonably small electoral units but, even so, a unit electing three councillors with a population of say 10,000 persons is a unit in which the councillors cannot be more than names to most of those they represent.

It seems, then, that any solution of this dual problem of efficiency upon the one hand, and sense of personal responsibility springing from personal acquaintance on the other, will have to be a compromise. Logically, the best solution of the problem, under modern English conditions, might have been that put forward a generation ago in a now forgotten work by Mr. and Mrs. Sidney Webb. Their notion was that a single person should be elected, as the representative for all purposes of an area small enough to enable his electorate to get to know him if they wished, and that the elected representatives should then be combined in many different bodies, always representing the same electoral unit but with a different set of colleagues according to the subject matter. This suggestion was, however, stillborn ; with the fundamental English insistence upon challenging the capacity of any person who (as an individual) is asked to undertake any piece of work, it is unlikely that it would ever be adopted.

ADDITIONS TO COMMISSIONS

BIRMINGHAM CITY

Mrs. Frances Mary Bailey, 83, Portland Road, Birmingham 16.
Miss Winifred Mary Bayes, 31, Hawthorne Road, Birmingham 30.
Mrs. Constance Bourne, 107, Freer Road, Birmingham 6.
William Tegfryn Bowen, 138, Cartland Road, Birmingham 30.
Norman Bradbeer, 10, The Close, Reservoir Road, Olton, Birmingham 27.
Leonard Harry Cleaver, 8, Swarthmore Road, Selly Oak, Birmingham 29.
Sydney Edmund Dawes, 139, Moor End Lane, Birmingham 24.
William Henry Duckles, 70, Dovehouse Lane, Solihull, nr. Birmingham.
Horace Sydney Goodby, West Hill House, Brandwood Road, Birmingham 14.
Joseph Arthur Grainger, 212, Pineapple Road, King's Heath, Birmingham 14.
Mrs. Irene Margaret Hall, 149, Church Lane, Birmingham 20.
Norman Arthur Hare, 96, Beaufort Avenue, Ward End, Birmingham 8.
Edmund John Haynes, 323, Shenley Fields Road, Birmingham 29.
Miss Amy Alice Hipkins, 237, Brandwood Road, Birmingham 14.
Percy Hudson Jones, 25, St. Mary's Road, Harborne, Birmingham 17.
Sidney Vernon Lancaster, 12, Moorland Road, Edgbaston, Birmingham 16.
Mrs. Joan Mary Marris, 28, George Road, Edgbaston, Birmingham 15.
John Eric Payne, 98, Wake Green Road, Birmingham 13.
Mrs. Hilda Reed, 139, Viceroy Close, Edgbaston, Birmingham 5.
Mrs. May Scrivens, 66, Solihull Lane, Birmingham 28.
Edgar Turner, 271, Kingsbury Road, Birmingham 24.
George Edward Varnom, 86, Heronswood Road, Rednal, Birmingham.
James Wilson, 35, Wake Green Road, Moseley, Birmingham 13.
Lawrence Willoughby Wilson, 125, Hagley Road, Edgbaston, Birmingham 16.

YORKS, E.R.

Mrs. Nora Ann Lowson, Fairholme, Hessle.

THE BEDFORDSHIRE SUPERANNUATION PROPOSALS

We have spoken more than once of the proposals in regard to superannuation, to be found in the Bedfordshire County Council Bill now awaiting a parliamentary decision. The topic is important to many of our readers, and communications already received show that there is room for some misunderstanding. We are, therefore, glad to publish this further note upon the Bill, based essentially upon information compiled by Mr. S. W. Hill, A.I.M.T.A., and supplied to us by courtesy of the clerk of the county council. We may, however, add (to the composition of the Bill and its purpose made available by the county council) a warning that it is in the first place necessary to bear in mind the exact provisions of s. 21 of the Local Government Superannuation Act, 1937. It is particularly desirable to notice the difference between an equivalent contribution, an equal annual charge in the technical sense, and a deficiency payment required by s. 22.

One proposal which might have been made (regarding merely the logical possibilities of legislation) would have been to cut loose from the system of a separate " fund " ; to pay pensions from the current resources of the county, as the Government pay civil service pensions from their ordinary funds, at the same time (unlike the Government in relation to Civil Service pensions) continuing the county pensions on a contributory footing, putting the employees' contributions into the general funds instead of into a separate fund. This would automatically get rid of the equivalent contribution required from the employing authority under the existing law.

It was recognized in the report prepared for the county council that such a proposal, albeit logically possible, was not one that would be carried through in practice, because of the problem of the existing fund balance. It is almost inconceivable that this balance, at present in Bedfordshire over three-quarters of a million pounds, should be treated as a disposable part of the county fund and of the general rate funds of the admitted authorities, even as capital money therein. The fund has been built up for the specific purpose of the superannuation scheme, and the application of the present balance for any other purpose could not be justified. It would be necessary, therefore, to treat the existing balance as available for superannuation purposes, either for defraying current pensions or as a reserve against the increased pension liabilities of later years, or be held as a sort of guarantee for those liabilities—in other words, as a continuing fund not on a permanent footing, but enduring for many years until its exhaustion.

It being granted, therefore, that the immediate abolition of the separate superannuation fund could not be attempted, consideration was given to the suggestion that the separate fund should continue, but without employers' contributions. The effect would be an immediate saving to the ratepayer, but Mr. Hill calculated that in course of time the fund would be exhausted, because the employees' contributions would not keep it actuarially solvent. Sooner or later, therefore (the point of time varying with circumstances), the ratepayers would have to bear some cost for superannuation, over and above the amount received from employees' contributions. It might, however, be twenty years or more before this began to happen, and a period much longer still before the cost to the rates was equal to the employers' contributions required by the existing Acts.

Despite this comparatively favourable verdict, Mr. Hill has advised that the course last discussed would not be proper, because of an important matter of principle involved. The fundamental theory of local government superannuation in the long term is that the cost should be shared equally between employees on the one hand and employers on the other, and the present fund is in the nature of a trust fund established on that basis. To abolish the equivalent contribution by employers would be to strike at the roots of this conception of partnership. He does not think it enough to compare the position with that obtaining for Civil Service pensions, health scheme pensions, teachers' superannuation, or police pensions. The first three are liabilities of the Exchequer, the entire finance of which is conducted on pay-as-you-go lines, whilst police pensions are an Exchequer liability as to one-half.

The equal annual charge where payable, and the deficiency payment (*see* s. 21 (2) cited above, for the distinction drawn by the Act, although the deficiency payment can be itself treated as an equal annual charge) stand in Mr. Hill's view in a different category from the employer's contribution under s. 6 (2) of the Act, and the case for abolition rests on different and much stronger grounds. He considers that any proposal for the reform of the financial basis of local government superannuation should rest on the abolition of these charges.

The financial scheme of both the Local Government and Other Officers' Superannuation Act, 1922, and the Local Government Superannuation Act, 1937, was that both employers and employees should make an equal contribution to the cost of superannuation in so far as it related to the provision of pensions based on service subsequent to the adoption of the scheme. This was measured at five *per cent.* of salaries or wages subject to certain modifications not here in point. It was generally recognized at the time that under the only conditions that could then be foreseen these two contributions together (ten *per cent.* of salaries or wages) would normally be adequate, with the interest earnings that would accrue through the funding of the amounts, to meet the liability for pensions in so far as they were based on periods of contributory service.

The Acts provided, however, that all services performed before the introduction of the scheme—that is to say, service in years for which no contributions were made either by employers or employees—should be reckonable for the calculation of pensions on retirement, but at a lower benefit rate. This was achieved by treating these non-contributing years as so many one-hundred-and-twentieths (of the emoluments in the last five years preceding retirement) instead of the sixtieths which contributory years earned.

The obligation to recognize non-contributory back service placed an additional financial burden on the superannuation fund, which the ordinary contributions amounting to ten *per cent.* of pay were inadequate to cover. This is the origin of the equal annual charge, this being the amount that was originally required to be contributed over a period of forty years to make good the liability arising from the recognition of non-contributory service. The Act of 1937 also provided that, to ensure the solvency of the fund, there should be periodic valuations, and if these disclosed a deficiency or a surplus the authority should make a scheme for making it good or disposing of it, as the case might be. Since 1937, there have been several factors at work the result of which has been to increase the potential pension liabilities to a greater extent than the income from the employees and equivalent contributions. There has been a very substantial rise in the level of salaries and wages. This will be reflected in a proportionate increase in the liability for pensions ; although it also means a commensurate increase in income from contributions during future years, there can be no back-reckoning for the

earlier years when contributions were based on lower scales of pay. No means exist to recover these burdens by an increase in the ordinary contributions, and thus a larger actuarial deficiency is shown, involving an increased provision by way of equal annual charge. Again, the average expectation of life is increasing year by year, but the compulsory retiring age has until recently remained unaltered at sixty-five. This factor means a longer average pension period, unaccompanied by any extension of the years during which contributions are payable. Lastly, there has been a fall in the rate of interest affecting the accumulations in a superannuation fund.

There has been a further increase in the scales of local government pay since 1950, and Mr. Hill expects that at the next quinquennial valuation the deficiency will be shown to exceed that recorded in 1950. It might then increase to a figure requiring £40,000 a year to make it good in Bedfordshire.

It has already been pointed out that, even if no further contributions were made by way of equal annual charge, it would be a long time before any actual deficiency in the fund became apparent—that is to say, when the outgoings in any year exceeded the income. It might in Mr. Hill's opinion be found that an actual accounting deficiency would not appear in the superannuation fund within the service lifetime of any present member of the scheme. Nevertheless, it is an unsatisfactory feature of the present arrangements that they leave the local authority to bear the brunt of all unfavourable changes and trends. At the present time the additional charges provided for in Bedfordshire under s. 21 are not far short of the equivalent contribution under s. 6 (2), which means that the employers' total contribution is something like nine *per cent.*, in contrast to the employees' contribution of five *per cent.* This is not in accordance with the notion of an equal share, with which the Acts began.

It is argued against the abolition of the " equal annual " or " deficiency " charge that this provision is a form of saving, and that it is not expected that, if this amount ceased to be saved in the hands of the local authority, the ratepayers generally would add to their personal savings to an equivalent extent. The equal annual charge paid by local authorities in the aggregate is, says Mr. Hill, probably of the order of £8m. to £10m. a year, and it is questionable whether local authorities ought to be building up compulsory savings in this way, under cover of statutory provisions designed for another purpose.

It must not be thought, however, that if the equal annual charge were to cease the whole benefit of the amount involved would be secured for the ratepayers. It would be shared with the Exchequer, who would secure some part of the advantage by a reduction both in their specific grants, *e.g.*, education, and in the amounts to be provided by way of Exchequer equalization grants. At the present time, as we in round figures stated at p. 154, *ante*, the equal annual charges payable to the county council's superannuation fund are £32,940, of which £26,598 is borne by the county council in the first place, and £6,342 by the other admitted authorities. It is estimated that of the £26,598 provided by the county council, approximately £16,000 would be saved to the Government in the reduction of their several grants, leaving approximately £10,500 as immediate relief to the county ratepayers. The abolition of the equal annual charge would not cause trouble until such time as the annual payment out for pensions exceeded the employers' and employees' contributions, and, as has been emphasized above, that time is a long way ahead. When this time arrives, then some arrangement would need to be made as between the county council on the one hand, and the admitted authorities on the other, for the sharing of the annual deficiency. This would not present very difficult problems, and might be made unnecessary by changes that might meanwhile take place in the pattern of local government.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Denning and Romer, L.JJ.)

EALES *v.* DALE AND ANOTHER

March 2, 3, 1954

Rent Control — Premium — Purchase of furniture at excessive price —Price exceeding " the reasonable price of the articles "—Return of premium—Landlord and Tenant (Rent Control) Act, 1949 (12 *and* 13 *Geo.* 6, *c.* 40), *s.* 3 (1) (*b*).

APPEAL by plaintiff from West London County Court.

The landlord of a dwelling-house containing three floors to which the Rent Restriction Acts applied let each floor separately as a furnished flat. When the second floor flat became vacant the plaintiff insisted on becoming a tenant of that flat on the basis of an unfurnished tenancy, and was willing to purchase the furniture. The wife of the landlord, who was the owner of the furniture, together with the plaintiff made an inventory of the furniture, priced each item, and arrived at a value of £500. That value was higher than the market value. The tenant alleged that the market value was £180, and claimed by reason of the ss. 2 (5) and 3 (1) (b) of the Landlord and Tenant (Rent Control) Act, 1949, the return of the sum of £320, being the alleged excess of the price paid over the reasonable price of articles of furniture. The action was dismissed.

Held: (i) " the reasonable price " in s. 3 (1) (b) of the Act of 1949 was not necessarily synonymous with the market value, and while, no doubt, the latter was an important element in determining the former, yet in doing so one had to consider all the relevant circumstances without regard to extraneous circumstances, *e.g.*, the desire of the prospective tenant to attain the tenancy ; (ii) the determination of the reasonable price was a question of fact, and, as there was no error in principle below, the appeal failed.

Appeal dismissed.

Counsel : *Peter Boydell* for the plaintiff ; *Derek Wheatley* (*H. V. Forbes* with him), for the defendants.

Solicitors : *Galbraith & Best*, for the plaintiff ; *How Davey & Lewis*, for the defendants.

(Reported by F. Guttman, Esq., Barrister-at-Law).

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Davies, J.)

HILL *v.* HILL

January 21, 22, 1954

Husband and Wife—Desertion—Defence by wife of just cause to leave husband—Matters alleged by wife unsuccessfully set up by her in previous divorce suit.

PETITION by husband for dissolution of marriage on ground of wife's desertion.

On May 7, 1949, the wife left the matrimonial home. On Aug. 19, 1949, she presented a petition for divorce on the ground of her husband's cruelty. On Mar. 7, 1950, the judge dismissed the petition on the ground that, although the wife's health had been affected, that was not due to any matrimonial misconduct by the husband. The husband now presented a petition for dissolution on the ground of the wife's desertion on May 7, 1949, and the wife, by her answer, pleaded " just cause," the matters she relied on in support of this plea being substantially the same as those alleged by her in her unsuccessful petition, or matters which could have been so alleged. In his reply the husband pleaded that in the circumstances the wife was estopped from alleging " just cause."

Held: on the facts the matters alleged by the wife could not be of such a grave and weighty character that, even though they did not amount to cruelty, they could be relied on by the wife as just cause for her leaving her husband ; but, in any event, just as the wife would not have been entitled in support of a plea of constructive desertion to rely on matters which she had previously alleged unsuccessfully, so she was not entitled to rely on such matters as constituting grave and weighty matters giving her good cause for leaving her husband and preventing him obtaining a decree of restitution of conjugal rights ; in the circumstances of the case considerations of public policy and the duty laid on the court by s. 4 (1) of the Matrimonial Causes Act, 1950, did not demand that the court should inquire into the facts alleged by the wife in her answer ; and, therefore, the husband was entitled to a decree.

Counsel : *John Latey* for the husband ; *Marshall-Reynolds* for the wife.

Solicitors : *Church, Adams, Tatham & Co.*, for *Matthew Arnold & Baldwin*, Watford ; *Henry B. Sissmore & Co.*

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

PERSONALIA

APPOINTMENTS

Mr. E. F. Luke, police magistrate, Registrar-General and Coroner of Sierra Leone, has been approved by Her Majesty to be a Puisne Judge. Mr. Luke is an African.

Mr. William Ewart Evans has been approved by Her Majesty to be a Puisne Judge in Northern Rhodesia, where he is at present Resident Magistrate.

Mr. Theobald Richard Fitzwalter Butler has been approved by Her Majesty as chairman of Nottinghamshire Quarter Sessions.

Mr. Max Ernest Holdsworth has been appointed by the Lord Chancellor to succeed His Honour W. Kelly Carter, Q.C., as chairman of the East Midland Agricultural Land Tribunal.

Cr. David E. Howells, a barrister and member of Cardiff city council, has been appointed chairman of the East Glamorgan Valuation Panel.

Mr. C. F. B. Gilman has succeeded Mr. P. O. Wake as clerk to the South Wootton P.S.D. Mr. Gilman was admitted in 1933, and is a partner in Marshall & Eldridge, of Oxford.

Mr. John Paul Holden, at present serving the borough of Finchley, has been appointed deputy town clerk of Kidderminster in succession to Mr. J. Bunting, who takes up his appointment next month as clerk to Penge U.D.C.

Mr. Alastair K. Ross, first assistant solicitor to Manchester City Council, has been appointed a Visiting Commissioner (Legal) on the staff of the Board of Control (Lunacy and Mental Deficiency).

Mr. Kenneth Douglas Thompson has been appointed to succeed the late Lt.-Col. A. J. Marigold as senior probation officer for Oxfordshire. Mr. Thompson is the senior of the six probation officers at Croydon, where he was appointed a full-time officer in 1938.

Mr. Robert Tindle, probation officer for Northumberland, has been appointed probation officer for the Isle of Wight.

Chief Supt. J. Crouch, deputy chief constable of Brighton, has retired. He is succeeded by Det. Supt. C. J. W. Ridge, who will continue in command of Brighton C.I.D. Chief Inspector T. R. Hill is promoted to superintendent, Inspector W. F. Friend to chief inspector, and Sgt. D. G. Field to inspector, as the result of Mr. Ridge's promotion.

RETIREMENT

Mr. T. D. Howells, town clerk of Barry, is to retire. He will be succeeded by Mr. J. C. Colley, LL.B., the deputy town clerk, whose post will be filled by Mr. R. Hunter, an assistant solicitor to Cardiff.

Mr. H. H. Herman, chief constable of York since 1929, is about to retire.

OBITUARY

Sir Robert Aske, Q.C., the leader of the Commercial Bar, has died at the age of eighty-one. He received the LL.D. and Gold Medal of London University in 1900 and was called by the Middle Temple in 1914, having been admitted a solicitor twenty years before. For two years he had been a deputy sheriff of Hull, and was knighted in 1911.

Mr. Nathaniel Micklem, Q.C., has died at the age of 100. The second son of a solicitor, he took a first in jurisprudence at Oxford in 1877, and three years later took the only first in the B.C.L. examination ; he was also an LL.B. and fellow of University College, London, of which he was Auditor in 1883. He was Barstow Scholar at Lincoln's Inn and won a certificate of honour on his call to the Bar in 1881, taking silk in 1890. Mr. Micklem succeeded Lord Macmillan as chairman of the Royal Commission on Lunacy and Mental Disorder in 1930, and in the same year acted as Treasurer of Lincoln's Inn, of which he was a Bencher and a member of the Bar Council.

Sir Thomas Harrison, solicitor and legal adviser to the Ministry of Health from 1934 until his retirement in 1951, has died at the age of sixty-eight. He was admitted in 1912, and after the first War entered the legal branch of the Ministry of Transport, later going to the transport branch of the Treasury Solicitor's Department. He was appointed assistant solicitor to the Ministry of Health in 1929, succeeding Sir John Maude as solicitor and legal adviser five years later. He was knighted in 1942.

Mr. Philip Elton Longmore, C.B.E., T.D., clerk of the peace and of Hertfordshire county council from 1930 to 1948, has died at the age of 69. He was admitted in 1910, and after his retirement served four years as a member of Welwyn Garden City and Hatfield Development Corporation.

His Honour Judge Harold James Conder Whitmee, a County Court Judge of Circuit 33 (Essex & Suffolk) since 1947, has died suddenly at the age of fifty-two. He was called by Grays Inn in 1925, and practised in London and on the South Eastern Circuit until 1940. He was appointed a County Court Judge of Circuit 25 (Wolverhampton) in 1946, and later served in Circuit 38 (Edmonton) before going to Essex.

Mr. Harold Nelson Tebbs, whose resignation after twenty-five years as clerk to the Bedford justices we announced on p. 89, has died at the age of eighty-one.

Mr. Douglas Archibald Daniels, O.B.E., town clerk of Deal since 1921, has died there at the age of sixty-three. He was made a freeman of the town in 1952.

Mr. Ernest Tudor Thomas, former chief inspector of weights and measures for the Bristol area, has died. He retired in 1938.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

TREATMENT OF SEXUAL OFFENDERS

Replying to questions in the Commons, the Secretary of State for the Home Department, Sir David Maxwell Fyfe, said that prisoners convicted of offences of a sexual nature were specially investigated by prison medical officers, who were instructed to recommend for psychiatric treatment those likely to prove susceptible to it. A prisoner would not benefit by such treatment unless he had a sincere desire for it and a genuine anxiety about his condition. Such adverse factors as low intelligence, advancing years and a history of persistence in the commission of offences reduced the number of suitable cases.

So far as England and Wales were concerned, there were three centres, Wakefield, Wormwood Scrubs and Holloway, to which selected prisoners were sent to receive special treatment from visiting psychotherapists. The precise nature, extent and duration of treatment in a particular case were determined by the doctor carrying out the treatment. The forms of treatment used included both individual and group methods, assisted, as occasion required, by special procedures. There was also treatment of a less formal kind, especially in training establishments, in which the medical officer played a valuable part as a member of a team.

The number of prisoners convicted of offences of a sexual nature who were under regular treatment by a visiting psychotherapist for a period exceeding six months in the years 1951, 1952 and 1953 was twenty-five, twenty-six and twenty-seven, respectively. He added that he would hesitate to speak of cure in homosexual cases, and any attempt to give figures of supposed cures could only be misleading.

NOTICES

The Easter Quarter Sessions for the County of Cheshire will be held on Monday, March 29, 1954, at the Sessions House, Knutsford, and the Adjourned Quarter Sessions at the Castle, Chester, on Thursday, April 1, 1954.

The Easter Quarter Sessions for the County of Cardigan will be held at Lampeter, on Thursday, April 1, 1954.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Wednesday, March 17

RIGHTS OF ENTRY (GAS AND ELECTRICITY BOARDS) BILL, read 3a.

Thursday, March 18

SLAUGHTERHOUSES BILL, read 1a.

HOUSE OF COMMONS

Monday, March 15

TOWN AND COUNTRY PLANNING BILL, read 2a.

Tuesday, March 16

TELEGRAPH BILL, read 1a.

PENSIONS (INCREASE) BILL, read 3a.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 26.

CONSUMPTION OF INTOXICATING LIQUOR ON LICENSED PREMISES BY A YOUNG PERSON

A seventeen-year-old girl appeared before the Salisbury magistrates last month, and pleaded Guilty to purchasing intoxicating liquor on licensed premises for her own consumption, contrary to s. 129 of the Licensing Act, 1953.

For the prosecution, it was stated that the licensee of a Salisbury public house informed the police that a young woman was in one of his bars and that he thought she was under eighteen. He had asked her her age and she had replied that she was eighteen.

The girl purchased a light ale, and when a police constable called at the house and questioned her, she told him to start with that she was eighteen, but later she admitted that she was only seventeen.

The chairman, in fining the defendant 10*s*., observed that she looked much older than eighteen, and he added " It is very pleasing to note that the licensee was good enough to attract the attention of the police to this matter. We appreciate the good feeling and co-operation between the licensees and the police in this city."

COMMENT

Section 129 of the Licensing Act, 1953, is a source of worry to licensees, for it is notorious that many girls of sixteen and seventeen go out of their way to make themselves look considerably older, and it is embarrassing for a licensee to question a customer as to his or her age, and it is certainly not conducive to good trade.

It is true, however, that for the protection of the licensee, the section provides that a licensee shall not *knowingly* sell intoxicating liquor to be consumed on the premises to a person under eighteen, and that the *onus probandi* is thus cast on the prosecution, and this factor is of very real assistance to licensees.

It is to be noted in connexion with this section of the Licensing Act that by virtue of subs. 3, beer, porter, cider or perry may be sold for consumption on the premises to a person who has attained the age of sixteen, provided the liquor is supplied for consumption at a meal in a part of the premises usually set apart for the service of meals that is not a bar. R.L.H.

No. 27.

A SUCCESSFUL DEFENCE

A man of fifty pleaded Not Guilty when he appeared earlier this month before the Bath magistrates, charged with procuring to be sent a postal packet which contained a certain indecent or obscene article, namely a drawing, contrary to s. 63 of the Post Office Act, 1908, as amended by sch. 1 to the Post Office (Amendment) Act, 1935.

For the prosecution, evidence was given by a woman who produced a letter which had been stamped and which was addressed in the writing of the defendant, which writing she well knew. The letter bore a Bath post-mark and she received it from a postman. The contents of the envelope consisted of series of drawings which were undoubtedly obscene.

The only other witness for the prosecution was a police officer who went to see the defendant and told him of the recipient's complaint. Defendant was charged with the offence, and in reply to the charge, said " I gave it to a friend to deliver to her. I never meant it to go through the post."

The defendant gave evidence on oath, and admitted that the indecent drawings were made by him, and that he intended that they should be delivered to the recipient. Defendant said that he was justified in doing what he did on account of an unpleasant matrimonial history between his family and the recipient's family. On Christmas Day he gave the envelope containing the drawing to a mutual friend, and asked him to give it to the recipient. He did not tell the mutual friend what was in the envelope, but might have used words which would have led the friend to assume that it was a Christmas card. Defendant said that he appreciated that it would be an offence to send the envelope through the post, and it was because of this that he asked the friend to deliver it.

The friend was called, and he confirmed that he had received the letter for delivery. He thought that it was a Christmas card. When he got to the recipient's house, there was a party in progress, and he forgot all about the letter until the following morning when he felt it in his pocket and posted it. Witness agreed in cross-examination that the instructions he had received were to deliver the envelope, and despite very heavy cross-examination designed to test the veracity of his story, it proved impossible for the prosecution to shake his evidence.

Mr. J. B. Taylor, M.B.E., LL.B., solicitor, of Bath, to whom the writer is greatly indebted for this report, submitted that on the facts of the case, it was straining the words of the English language to say that the defendant had caused or procured the letter to be sent through the post, when all the evidence was to the effect that he was trying to do the exact opposite.

The magistrates retired to consider their decision and on their return dismissed the case.

COMMENT

It will be recalled that s. 63 of the Act of 1908, which prohibits the sending of deleterious substances or indecent prints, words, etc., through the post, provides that a person shall not procure to be sent a postal packet which . . . encloses any indecent or obscene article. Subsection 2 of the section provides for a maximum penalty on summary conviction of £10 and on conviction on indictment to imprisonment for twelve months.

Mr. Taylor referred at the hearing to the odd manifestation of parliamentary wisdom which the case emphasized, pointing out that it is illogical that filthy drawings may be handed with impunity to a person in the street in circumstances where they may become available to be inspected by young people, whereas the transmission of such drawings by post where they are most unlikely to be seen by anyone except the addressee, is an offence punishable by law. R.L.H.

No. 28.

UNCUSTOMED WATCHES

A twenty-three-year-old Holborn street trader was charged before the Norwich City magistrates on February 19 last with three offences under s. 304 of the Customs & Excise Act, 1952. Two of the charges alleged that the defendant had dealt with certain goods, namely, Swiss watches, which were chargeable with duties which had not been paid with intent to defraud Her Majesty of the duties payable thereon, and the third charge alleged that with a like intent he had concealed ten Swiss watches which were chargeable with duties which had not been paid.

For the prosecution, it was stated that an airman travelled from London to Norwich in a compartment where five men who were playing dice all wore similar watches. The watches had gold coloured cases and bracelets. One of the men offered to sell a similar watch to the airman for £3 10*s*., and he became suspicious and spoke to a police officer on arrival at Norwich.

The defendant travelled to Norwich on the day in question " to make his fortune" at the Sprowston dog track where he intended to sell watches to the citizens. One watch was in fact sold at the track to a man who paid £3 10*s*. for it. Later the same night when the party of five returned to the station they were interrogated and after two of them, including the defendant, had gone to a nearby convenience, a detective found ten watches in a lavatory cistern.

The defendant, who elected summary trial, pleaded Guilty to the charges, and made a statement to the police that he bought the watches " off a chap in a café in Leather Lane for £2 each " and thought that they were smuggled.

The chairman, stating that the Bench were reluctant to send a young man to prison, imposed a fine of £10 in each case.

COMMENT

By s. 304 of the Act of 1952, a person convicted of fraudulent evasion of Customs duty, etc., is liable to two years' imprisonment and a penalty of three times the value of the goods or £100, whichever is the greater.

By s. 283 of the Act, however, the maximum term of imprisonment on summary trial is twelve months.

(The writer is indebted to Mr. H. A. Sharman, clerk to the Norwich City justices, for information in regard to this case.) R.L.H.

PENALTIES

Staple Hill—March, 1954—selling food not of the substance demanded—fined £5, to pay £6 6*s*. 0*d*. costs. A sub-postmaster bought a 6 *lb*. fruit cake for a children's Christmas party. When it was cut there was found inside a piece of rope 6 ins. long and ¼-in. in diameter.

Bristol Assizes—March, 1954—(1) assault with intent to rob, (2) causing grievous bodily harm—three years' imprisonment. Defendant, who attacked the driver of a taxi in which he was riding, had previous convictions but none for violence.

Bristol Assizes—March, 1954—wounding with intent to cause grievous bodily harm—three years' imprisonment. Defendant, a twenty-two-year-old builder's improver, attacked the wife of a licensee after the other customers had left. He hit her severely about the

head and face, fracturing her cheek bone and making her face unrecognizable. Defendant had been a voluntary patient in a mental hospital for a short time in 1951.

Croydon—March, 1954—stealing articles worth 2*s*. 3*d*. from a store—fined £5, to pay £2 2*s*. costs. Defendant, a woman, was stated to have £102 in her possession when arrested.

Thames Magistrates' Court — March, 1954 — possessing ½*lb*. of Indian hemp without a licence—fined £100. Defendant, a thirty-two-year-old decorator, described by the prosecution as " a very active drug trafficker," kept two large rabbits. The hemp was found in a tin in the rabbit hutch.

Warwick—March, 1954—selling a tin of shoe polish on a Sunday—fined £2. Defendant, a grocer, was invited to sell by an inspector who then turned round and initiated the prosecution.

Norwich—March, 1954—causing annoyance—fined £1. Defendant made continuous 999 calls from two local telephone boxes for periods between midnight and 2.25 *a.m.* Defendant's breath was noticed by a police constable to smell of alcohol.

West London Magistrates' Court—March, 1954—obtaining 56 *lb*. of butter contrary to food rationing order—fined £35, to pay £5 5*s*. costs. Defendant, a forty-five-year-old Polish wholesale grocer, was stated to have a degree in economics. The magistrates said this aggravated the offence.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIRS,

LOSS OF RIGHT TO APPEAL

Regarding the article at p. 116 of your issue of February 20 on the question of the loss of right to appeal to quarter sessions after application for a case to be stated, you may be interested to know that this situation arose in one of my divisions recently. The matter was argued before Cheshire Quarter Sessions this week (week ending February 27), reference being made to your article, and also to the footnote on p. 62 of *Chislett on the Magistrates' Courts Act* regarding subs. (4) of s. 87 of the Magistrates' Courts Act, 1952.

Quarter Sessions refused jurisdiction and I understand that the decision is likely to be tested in the High Court.

Yours faithfully,
S. G. FORSTER.

8a Abbey Square,
Chester.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

EVIDENCE

With reference to the letter, *ante* p. 140, from Messrs. Larken & Co., as to putting a document to a witness without making it an exhibit, the case of *R.* v. *Treacy* [1944] 2 All E.R. 229, is of relevance where documents are put to an *accused* person. In that case it was held by the Court of Criminal Appeal that documents found in that person's possession but not made exhibits should not be put to him in cross-examination to suggest that they were forged. It was pointed out that the defence had had no opportunity of examining these documents nor of taking instructions in regard to them and the Court criticized the action of the prosecution in " keeping them up its sleeve " until cross-examination of the prisoner began. Of course, the accused is in a special position as a witness and in Treacy's case the documents were said to be very prejudicial to him ; it is not suggested that the same rule would necessarily apply to other witnesses.

Yours truly,
CAMBRIAN.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

CONSIDERING OTHER OFFENCES

The letter from Mr. T. D. Andrews, which you published at p. 125, *ante*, deals with the situation where there is an appeal against conviction by a person who, convicted after a plea of "Not Guilty," has asked for other admitted offences to be taken into account when the court is considering the question of sentence. He goes on to make a suggestion which was contained in *Hayward and Wright's Office of Magistrate* (7th edn.) (1946) at p. 52 :

" It must be remembered that the taking of an offence into consideration when passing sentence corresponds with a conviction. Thus, if a defendant pleads " Not Guilty " to a charge but is adjudged guilty, and then he asks for other admitted offences to be taken into consideration, a successful appeal against the substantive conviction will result in a situation in which he may plead *autrefois acquit* in respect of the offences *admitted* and taken into consideration in passing sentence. It therefore becomes sound practice to convict on one, at least, of the admitted charges to avoid their falling with a successful appeal against conviction."

This note, no doubt, was based on the then recent cases of *R.* v. *Browne* [1943] 29 Cr. App. Rep. 106, 126, and *R.* v. *McMinn* (1945) 109 J.P. 130.

In the two more recent editions of *The Office of Magistrate* (1950 and 1953) this statement is not repeated, apparently because of the decisions in *R.* v. *Nicholson* (1947) 112 J.P. 1 and *R.* v. *Neal* (1949) 113 J.P. 468.

Mr. Andrews' point is not quite so important as it might have been a few years ago.

Yours faithfully,
A. N. OTHER.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

LEGAL AID—DEFENCE CERTIFICATE
JUSTICE FOR THE LAW ABIDING

May I use your columns for the purpose of appealing to magistrates to have a little thought for the taxpayers before wasting any more public money in granting legal aid and defence certificates on cases which do not merit such grant.

The magistrates will probably say that it is better that a few pounds be wasted than an innocent man be wrongly punished through being unrepresented. I agree, but this is no excuse for many of the cases in which legal aid has been given. I give you five such cases dealt with during the past twelve months or so, and reported in the *North Cheshire Herald*.

1. A man surrendered himself to the police and made a voluntary statement of breaking and entering a shop. No defence offered, but a defence certificate was granted.

2. A man broke into the home of a relative and rifled the meter. There was a full voluntary admission, but a defence certificate was again granted.

3. " *Drunk in Charge*." A man wished to plead " Guilty," but was advised to accept legal aid. The solicitor then pleaded " Guilty " for him.

4. A woman stole £5 10*s*. She admitted the theft to the police and handed over the stolen cash. Legal aid was granted, and a solicitor pleaded "Guilty" for her. *North Cheshire Herald*, dated November 6, 1953.

5. A man entered neighbour's coal store by duplicate key, and stole coal to the value of 5*s*. 6*d*. The explanation offered was : The cold weather prevailing, and his home circumstances. Defence certificate granted. *North Cheshire Herald*, dated January 29, 1954.

May I suggest that for their guidance, a copy of the Lord Chief Justice's remarks in the case *R.* v. *Bosely* (*Journal of Criminal Law*, 1952, p. 70) should be placed in the magistrates' room.

Lord Goddard, in making these observations, did so with the approval of his brethren, as they thought it was time something was said about the matter. They were of the opinion that the granting of legal aid was becoming perilously near a farce. It so often happened that there was nothing that counsel could say. If it was merely bringing forward circumstances of mitigation, it is generally agreed by those concerned in the administration of the criminal law, that these should come from the accused man himself. He would be treated patiently and sympathetically.

If anyone will take the trouble to read the five cases I have cited, I am confident they will agree that they come into the farce class.

Fees to solicitors, etc., have been increased of late, so let there be a little thought for the taxpayers, because after all, the magistrates have a duty to the law-abiding equal to that to the wrongdoers.

Yours faithfully,
E. BURSLEM.

1 Hague Place,
Stalybridge, Cheshire.

EUPHONY

" Silence that dreadful bell ! " commands Othello, when the peace of the night is disturbed by its importunate ringing. Most of us have, at some time or other, given utterance to a similar adjuration, perhaps in even stronger language, when the insistent summons of the telephone calls us from the comfortable bed where we have just succumbed to the pleasant drowsiness that precedes a good night's sleep. There is no dilemma so cruel as that produced by the shrill pealing of this wicked little instrument after we have returned to rest. To lie where you are, with head buried in the pillows, and let the beastly thing go on ringing, is an unsatisfactory solution of the problem ; there is nobody more persistent than your late caller, who has doubtless chosen a time when he knows you must be at home—and after all (so your slowly gathering wits remind you) it *may* be something important. If, on the other hand, as reluctantly as Macbeth, you " screw your courage to the sticking-place," leave your warm couch and, pulling a dressing-gown round your shivering body, descend to the hall and lift the receiver, the odds are about twenty to one that it will be either a wrong number, or some garrulous female relative intent upon a cosy little chat. For telephone-users fall into two well-defined categories—those laconic persons who consider the appliance as a necessary means of conveying or receiving information, and those extraverted creatures who suffer from a compelling urge to share with their unwilling listeners the trivial and superficial ideas that flit through their almost empty heads. Malefactors of this latter class are not yet, unfortunately, penalized by law in this conservative country.

Of all the devices placed at our disposal by a mechanistic civilization the telephone is one most fraught with frustration. Much has been written of the malevolence of inanimate objects—the pen which you had in your hand a moment ago, and which has unaccountably concealed itself at the very bottom of the mass of papers on the desk ; the collar-stud which has deliberately rolled out of reach beneath the dressing-table ; the coin for your fare which has furtively insinuated itself into some inaccessible place in your pocket-lining, through a hole which you are certain was not there when you put on the suit that morning. But a delinquent telephone is far worse than any of these. Somewhere, we feel, beyond that innocent-seeming instrument of smooth black plastic, that tangle of wires which straightens itself out and disappears so neatly behind the wainscot, is a live malicious personality—man, woman or *djinn*—which is ultimately responsible for the crackling noises, the sudden explosions, the false connexions, the irruptions of alien voices and the embarrassing silences that punctuate our conversations on a bad day. Nor is there any kind of frustration to compare with that induced by the operator's urbane inquiry, " Have you finished ? " when we have just been " cut off " and reconnected to a wrong number for the seventh time.

An organization calling itself the British Productivity Council has recently issued the report of a team who have been studying the maintenance of automatic telephone exchanges in the United States. The report's observation that the average quality of the service there is very little better than that in the United Kingdom is doubtless meant to be consolatory ; to such an extent has propaganda accustomed us to the idea that all transatlantic institutions are bigger and better than anything in the Old World. On the other hand the average American, we are told, is more satisfied with his telephone service than is the British subscriber, and this is attributed to better publicity " over there," in the form of a prompt, personal and sympathetic repair service. Complaints are dealt with by specially-trained girl clerks " whose function is to be so helpful in word and action that the subscriber will remember the excellence of the repair-service rather than the frequency of faulty working." This Machiavellian subtlety—a new variation on the theme of " service with a smile "—is a device scarcely likely to appeal to the British customer who, beset by shortages, restrictions and deprivations of every kind, still cherishes his few surviving rights, the principal of which is the right to grumble. An Englishman, as Shaw has noted, thinks he is moral when he is only uncomfortable, and he would regard with the utmost suspicion and distrust any new-fangled system which might be calculated to mitigate the pains of the martyrdom he so much enjoys resenting.

Though the quality of the ordinary telephone service in the United States is no more than passable, considerable technical efficiency seems to be displayed in putting the apparatus to extraordinary uses and in carrying publicity to unusual lengths. A recent decision in the Supreme Court illustrates the extreme ingenuity of the police in the elaborate art of employing one devil to cast out another. One Patrick Irvine, of Long Beach, California, was strongly suspected of a serious breach of the State gambling laws. The evidence against him being defective, the police (while he was absent from home) got a locksmith to fit a key to his front door, installed a microphone, first in his living-room and later in his bedroom, bored a hole in the roof of his house and ran the wires to a neighbouring garage, where they were able to listen at their leisure to private conversations inside his home. With the evidence thus obtained the police secured a conviction carrying a term of eighteen months' imprisonment, with the alternative of a $1,500 fine and one year. Irvine appealed to the Supreme Court of the United States on the ground that one of his basic constitutional rights had been invaded—that of the citizen's right to be secure in his own home against unreasonable searches and seizures. By a majority of five Judges to four the Supreme Court has now upheld the conviction.

The surprising paradox is that the majority as well as the minority express the emphatic view that the evidence against the accused was illegally obtained, and the Judges are practically unanimous in recommending that a record of the methods employed be sent to the Attorney-General to consider a prosecution of the Californian officers who violated the Bill of Rights. Yet the majority considered themselves bound by precedent to hold that unlawful methods of obtaining evidence do not prevent them from upholding a conviction based thereon. As Mr. Justice Jackson said, in the majority judgment, upholding the conviction :

> " Each of these repeated entries of the petitioner's home was a trespass and probably a burglary, for which any unofficial person should be and probably would be severely punished. Science has not perfected amplifying and recording devices to become frightening instruments of surveillance and invasion of privacy whether by the policeman, the blackmailer or the busybody."

It may be doubted whether publicity of this kind, whether or not accompanied by a " prompt, personal and sympathetic repair service," is calculated to increase the popularity or to encourage the universal adoption of telephonic equipment in American homes or elsewhere. A.L.P.

HIS HONOUR

He never figured in an Honours List
Yet honour gained which honoured people missed.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to " The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Justices' Clerks—*Fees—Cases committed for trial.*

Section 112 of the Magistrates' Courts Act, 1952, and Part I of the fourth schedule thereto provide for a fee of £1 5*s.* to be taken by the clerk to the justices for the performance of all the several duties in every case committed for trial to a court of assize or quarter sessions without regard to the number of prisoners included in the same charge. I should be grateful for your opinion as to what is meant by the words " in every case " in this provision.

It would appear that apart from multiplicity of prisoners included in the same charge there are other ways in which a committal for trial can have a multiple element. This can arise either (*a*) when the committal involves only one series of facts but those facts themselves divulge several legal offences whereupon the clerk of assize/peace includes several counts on the indictment but all of them are based on the same facts, *e.g.*, indecent assault, common assault, attempted assault, etc., arising out of a single incident, or (*b*) when the case involves two or more series of distinct facts (some of which may overlap) but each of the series would of itself constitute a separate criminal offence *e.g.*, breaking into a house at ten o'clock and breaking into a shop at twelve o'clock on the same night. I am inclined to the view that most committals for trial in the circumstances envisaged in (*a*) above might reasonably be called one " case " but that in committals of the nature referred to in (*b*) it would be incumbent on the justices' clerk to claim a fee for each of the offences notwithstanding the fact that the prisoner might be committed as a result of comprehensive proceedings when depositions are taken in respect of all the offences at one sitting.

Your views, however, would be appreciated. SPLUTO.

Answer.

We agree with our learned correspondent's view, although the matter is not free from doubt, *see* questions and answers at 112 J.P.N. 799 and 114 J.P.N. 700.

2.—Licensing — *Licensing Act*, 1953 — *Effect on orders made under repealed enactments.*

In the two divisions for which I am clerk the normal hours are not the same as those prescribed by s. 101 (1) of the new Act and in addition the justices decided that the extension of half an hour after ten in the evening should apply to their districts for six months in the year, also extended hours were given to certain hotels and restaurants.

In view of the fact that the whole of the Licensing Acts of 1910, 1921 and 1934 are repealed I shall be glad to know whether you consider the existing position can legally continue without anything being said or whether steps should be taken to make the old hours legal under the Act of 1953. NONORM.

Answer.

It is unnecessary to make any fresh orders in the matters mentioned. Orders made under enactments repealed by the Licensing Act, 1953, will continue to have effect by virtue of s. 168 (2) of the Act.

3.—Magistrates—*Jurisdiction and powers—Arrears of National Insurance contributions—Enforcement of order for payment made at time of conviction under s.* 2 (6) *National Insurance Act*, 1946.

I shall be glad of your advice regarding the steps my justices may take against the defendant in the circumstances I now set out.

The defendant came before the county justices at the end of March last and was convicted of two offences under s. 2 (6) of the National Insurance Act, 1946. The first offence was for failing to stamp the card of an employee and the second offence failing to stamp his own card as a self employed person. The defendant was found Guilty on each charge, was fined £2 for each offence and ordered to pay the arrears of contributions amounting to £38 7s., together with £1 8s. special costs. He paid £8 at the hearing and was given eight weeks in which to clear the balance.

The defendant has been allowed various extensions of time for payment and has paid part of the total amounts due.

The penalty for offences under s. 2 (6) of the National Insurance Act is a fine not exceeding £10.

The justices made it clear to the defendant on his last appearance that they were extremely dissatisfied and that they considered he was treating the mater in a very off-handed manner and it is not unlikely that when he is brought before them on warrant a suggestion will be made by them to commit him to prison. Can you please advise me as to whether the justices can commit the defendant to prison and, if so, please quote the authority ?

The defendant is a jobbing builder working on his own account and on each appearance before the justices he has stated that certain substantial sums of money were due to him from customers on the completion by him of certain contracts. Some of the sums received by me have been paid direct to me on his authority by a customer. JIG.

Answer.

The order for payment of the arrears was made under reg. 19 National Insurance (Contribution) Regs., 1948. Rule 19 (5) provides that any sums ordered to be paid under that regulation shall be recoverable as a penalty.

On this, some argue that the arrears are enforceable as a sum ordered to be paid on conviction. If this view is taken the defendant, after inquiry in his presence under s. 70 Magistrates' Courts Act, 1952, can be committed to prison if the evidence as to his means justifies this course. In deciding this point the court must be guided by the decisions in *R.* v. *Woking JJ.* [1942] 2 All E.R. 179 and *R.* v. *Dunne* [1943] 2 All E.R. 282.

The other point of view is that in spite of reg. 19 (5) the cases of *R.* v. *Master* (*or Martin*) (1869) L.R. 4 Q.B. 285 and *R.* v. *Kerswill* (1895) 59 J.P. 342 support the contention that the arrears of contribution are recoverable summarily as a civil debt, and not as a sum payable on conviction. On this argument payment must be enforced as provided by ss. 50 and 73 Magistrates' Courts Act, 1952.

We see no reason, unless the High Court decides to the contrary, why the first of these two views should not be acted upon.

4.—Magistrates—*Practice and procedure—Clerk retiring with justices —Justices requiring him to elucidate matters in the note and to advise whether the facts they find constitute an offence.*

On December 12, 1953, my justices had before them a case under s. 12 of the Road Traffic Act, 1930, in which evidence was given as to the movements of four vehicles and of their ultimate positions upon the roadway and marks on the road surface. A shorthand note of the proceedings (with measurements and positions in long hand) was taken by the assistant clerk.

At the conclusion of the case for the defence the justices intimated that they required the clerk's advice, and counsel for the defence submitted that in the light of the practice direction of November 16, 1953, by the Lord Chief Justice the clerk should not retire as a matter of law.

The justices and their clerk then retired, and after consultation with the clerk, the Bench returned to court with him for the purpose of announcing their decision upon counsel's submission under the practice direction. The chairman in the presence of the whole of the bench and the clerk, and all the parties concerned, and after requesting the press to take a special note of his remarks said " The bench have not considered the facts of this case at all at this moment. They have, however, considered the practice direction and taken the advice of their clerk thereon. They are of opinion that in view of the complex measurements which have been given in evidence they require to refer to the court note and require the clerk to elucidate points thereon. They may also require him to advise them whether the facts which they may find could constitute an offence in law, and they therefore propose now to request him to retire with them for that purpose."

The bench and the clerk then retired, and after consultation the case was dismissed.

The clerk and the bench would be glad of your valued opinion as to whether they acted correctly in all the circumstances and if not, what steps they should have taken. JOG.

Answer.

We find nothing to criticize in what occurred.

5.—Public Health Act, 1936—*Moveable dwellings—Meaning of the word " use."*

A and B are proprietors of a travelling amusement fair and as such regularly station and use caravans on a site which they own, and which has for years been their winter quarters. They have now applied for licences under s. 269 (1) (ii) of the Public Health Act, 1936, authorizing them to station and use six further caravans on the land. These caravans will be let to C, D, E, F, G and H. It seems that the more appropriate application would have been for a site licence under s. 269 (1) (i). As to the applications made, however, note (i) on p. 2714 of *Lumley* seems to be in point.

A and B sell their amusement fair but retain a stall or two. It is observed, however, that they are not " travelling " but their caravans

remain on the site so that they are not used " in the course of travelling for the purpose " of their business. It is assumed in these circumstances that A and B will require licences to station and use their respective moveable dwellings.

As they are the owner/occupiers of the land and wish to let six caravans an application under s. 269 (1) (i) again seems to be the correct procedure. Apart from A and B being the occupiers (subs. 8 (ii)) their occupation of the two moveable dwellings and their letting of six other moveable dwellings puts the position on all fours with the note cited in *Lumley*.

Would you please advise—

1. Section 269 (1) (ii) Public Health Act, 1936.

Does " letting " constitute use, or is it necessary for each occupier of a caravan to apply for licence in respect of the use of the caravan ?

2. Town Planning.

As the site was a caravan site as winter quarters for travelling showmen before the resolution of the local authority to prepare a town planning scheme, is there any development under the Town and Country Planning Act, 1947, and the General Development Order—

(i) Upon the travelling showmen ceasing to be such and continuing to occupy caravans on the site ; and

(ii) On the occupiers placing another six caravans on the site and letting them ? DIDAKOI.

Answer.

1. This seems arguable. If the owners of the land have effective control of the caravans, much as a lodging house keeper has of his let-out rooms, they can be said to " use " them, for letting. The licence authorizing sites was intended, primarily, for the case where a farmer or landowner makes a field or paved space available, and other people put vans, etc., upon it. Whether a van is " used " by its occupant or its lessor seems pretty much a question of fact, and, from the practical point of view of enforcing sanitation, it may be better for the council to deal with one person than with six.

2. We think not. There is no material change.

6.—Rating and Valuation—*Overpaid rates—Period of refund.*

For many years an engine house attached to an estate has been liable to rating and has been entered in the valuation list as a separate hereditament, and the general rate paid by the owner/occupier of the property up to and including March 31, 1953. During the currency of the 1953/54 rate the owner informed the rating authority that the " engine house " had been let out to the Electricity Board for some years, and in consequence no rates were payable, the authority being Part V of the Local Government Act, 1948. This is agreed and the valuation officer of the Inland Revenue (Rating) Department has been asked to have the assessment deleted from the valuation list, when no general rate will be payable for the 1953/54 Rate. The owner/occupier now asks for a refund of the general rate for the period April 1, 1948 (the vesting date), to March 31, 1953, which has been refused. Will you please advise if this action is correct. ELEVADE.

Answer.

On the facts before us, we think there ought to be a refund of whatever has been paid in error, even though the relevant accounts have been closed.

7.—Real Property—*Conveyance of property horizontally divided.*

A borough council in pursuance of their powers under s. 80 of the Housing Act, 1936, propose to erect shops to serve the needs of the inhabitants of one of their large council estates. The plans drawn by the council's architect provide for flats over the shops, to be let separately to persons in need of accommodation. The council have carefully considered the matter and desire to convey the freehold of the shops to the traders but to retain the flats under their own ownership and control. Your esteemed opinion would be appreciated on the following points :

(1) Is the proposed sale to the traders legally within the powers of the Council under s. 80 of the Housing Act, 1936 ?

(2) Can the freehold of the shops be sold in such a way as to reserve to the council the full legal ownership of the flats ?

(3) If this proposal is open to legal objection is there any way in which the council's objects can be substantially achieved ? PARTEN.

Answer.

(1) Yes.

(2) Yes, but this is a rather technical achievement.

(3) This does not arise.

8.—Water Act, 1945—*Water rates—Procedure for recovery.*

Having somewhat belatedly read P.P. 16 at 117 J.P.N. 536, I have the following comment. Your reply appears to overlook that s. 38 (3) of the Water Act, 1945, provides for water rate to be recovered not only as a civil debt but also as a simple contract debt. That being so, the proceedings may, surely, be taken in the county court where the six month limit does not apply. As to recovery as a civil debt, did you take into account that s. 62 of the Local Government Act, 1948, and s. 1 of the Lands Tribunal Act, 1949, may perhaps have placed jurisdiction in the hands of the Lands Tribunal in place of a court of summary jurisdiction ? B.H.V.

Answer.

We had understood the query you mention as relating to recovery by the civil debt procedure alone. The county court is an alternative ; seeing that the section itself says this, we did not think it necessary to mention it. Whether the six months' limit, is, by implication, carried in to the county court is not beyond argument, but we think probably not, for reasons given in *Lumley*, pp. 298 and 2784 of the twelfth edition.

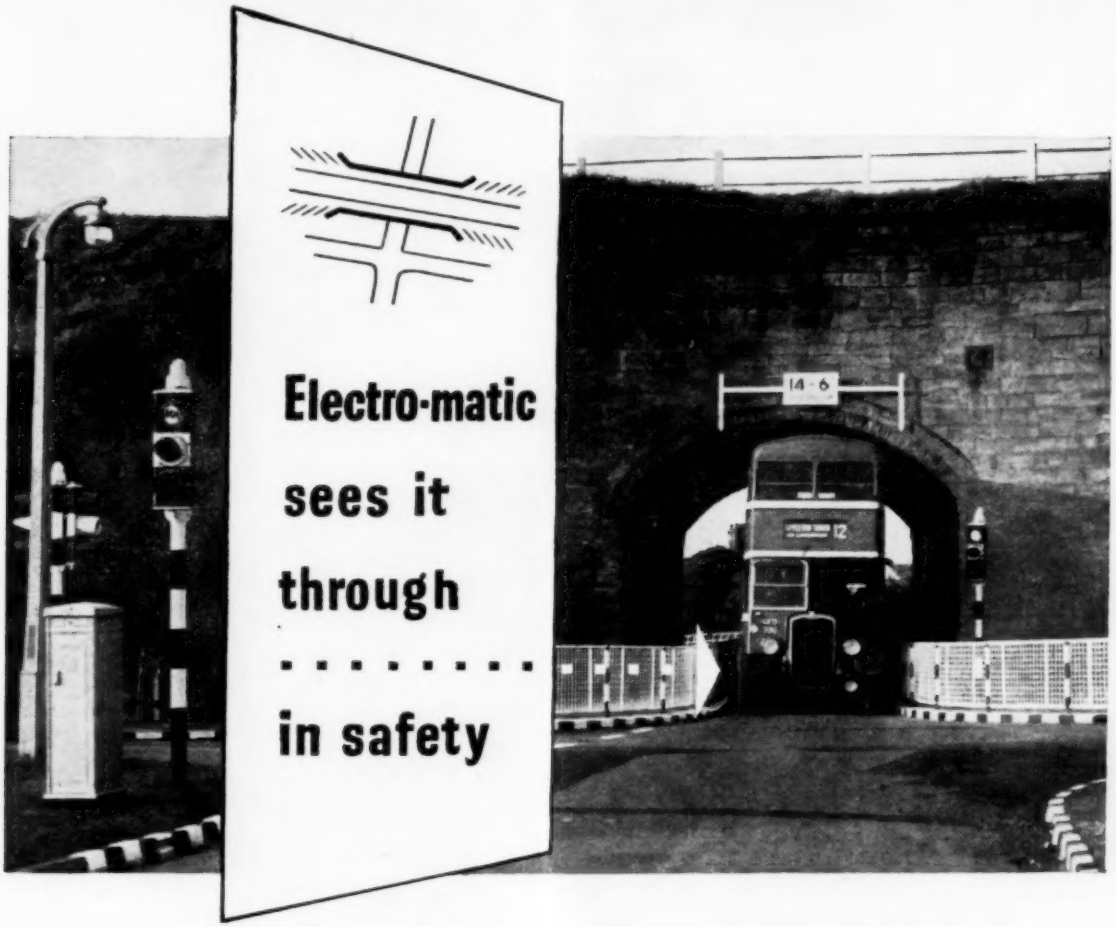
Upon your final query, touching s. 62 of the Local Government Act, 1948, and s. 1 of the Lands Tribunal Act, 1949, we regard the " dispute in relation to water rates " mentioned in s. 62 of the Local Government Act, 1948, as being that which is mentioned in the proviso to s. 38 (3) of the Water Act, 1945, or in s. 126 (1) of the Public Health Act, 1936. So far as concerns the Act of 1945, this is as to the amount due or liability to pay in a case (and only in a case) where the undertakers propose to cut off the water. Section 62, *supra*, and s. 1 of the Lands Tribunal Act, 1949, therefore do not touch the procedure for recovery of water rates in the first three lines of s. 38 (3).

9.—Water Supply—*Supply by owner.*

Several houses are connected to a water main in the public highway by one single supply pipe which is too small to serve all the houses with a constant supply of water. Will you please let me know if a notice can be served under s. 138 of the Public Health Act, 1936, as amended by s. 30 of the Water Act, 1945, requiring the owner to provide a larger supply pipe sufficient to give an adequate supply for some of the houses and an entirely new supply pipe for the remainder of the houses ? PARSIMAQ.

Answer.

Yes, in our opinion.



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Printed in Great Britain by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex, and published each Saturday by the Proprietors, Justice of the Peace Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. Registered at the G.P.O. as a newspaper. Saturday, March 27, 1954. Price 2*s.* 3*d.* with Reports, post free 2*s.* 5*d.*; without Reports 1*s.* 3*d.*, post free 1*s.* 5*d.* Subscription rates: £6 per annum with Reports; £3 10*s.* per annum without Reports.